

TITLE XVI—CORRECTIONS TO EXISTING LAW RELATING TO AIRLINE TRANSPORTATION SECURITY

SEC. 1601. RETENTION OF SECURITY SENSITIVE INFORMATION AUTHORITY AT DEPARTMENT OF TRANSPORTATION.

(a) Section 40119 of title 49, United States Code, is amended—

(1) in subsection (a)—

(A) by inserting “and the Administrator of the Federal Aviation Administration each” after “for Security”; and

(B) by striking “criminal violence and aircraft piracy” and inserting “criminal violence, aircraft piracy, and terrorism and to ensure security”; and

(2) in subsection (b)(1)—

(A) by striking “, the Under Secretary” and inserting “and the establishment of a Department of Homeland Security, the Secretary of Transportation”; and

(B) by striking “carrying out” and all that follows through “if the Under Secretary” and inserting “ensuring security under this title if the Secretary of Transportation”; and

(C) in subparagraph (C) by striking “the safety of passengers in transportation” and inserting “transportation safety”.

(b) Section 114 of title 49, United States Code, is amended by adding at the end the following:

“(s) NONDISCLOSURE OF SECURITY ACTIVITIES.—

“(1) IN GENERAL.—Notwithstanding section 552 of title 5, the Under Secretary shall prescribe regulations prohibiting the disclosure of information obtained or developed in carrying out security under authority of the Aviation and Transportation Security Act (Public Law 107-71) or under chapter 449 of this title if the Under Secretary decides that disclosing the information would—

“(A) be an unwarranted invasion of personal privacy;

“(B) reveal a trade secret or privileged or confidential commercial or financial information; or

“(C) be detrimental to the security of transportation.

“(2) AVAILABILITY OF INFORMATION TO CONGRESS.—Paragraph (1) does not authorize information to be withheld from a committee of Congress authorized to have the information.

“(3) LIMITATION ON TRANSFERABILITY OF DUTIES.—Except as otherwise provided by law, the Under Secretary may not transfer a duty or power under this subsection to another department, agency, or instrumentality of the United States.”.

SEC. 1602. INCREASE IN CIVIL PENALTIES.

Section 46301(a) of title 49, United States Code, is amended by adding at the end the following:

“(8) AVIATION SECURITY VIOLATIONS.—Notwithstanding paragraphs (1) and (2) of this subsection, the maximum civil penalty for violating chapter 449 or another requirement under this title administered by the Under Secretary of Transportation for Security shall be \$10,000; except that the maximum civil penalty shall be \$25,000 in the case of a person operating an aircraft for the transportation of passengers or property for compensation (except an individual serving as an airman).”.

SEC. 1603. ALLOWING UNITED STATES CITIZENS AND UNITED STATES NATIONALS AS SCREENERS.

Section 44935(e)(2)(A)(ii) of title 49, United States Code, is amended by striking “citizen of the United States” and inserting “citizen of the United States or a national of the United States, as defined in section 1101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))”.

TITLE XVII—CONFORMING AND TECHNICAL AMENDMENTS

SEC. 1701. INSPECTOR GENERAL ACT OF 1978.

Section 11 of the Inspector General Act of 1978 (Public Law 95-452) is amended—

(1) by inserting “Homeland Security,” after “Transportation,” each place it appears; and

(2) by striking “; and” each place it appears in paragraph (1) and inserting “;”;

SEC. 1702. EXECUTIVE SCHEDULE.

(a) IN GENERAL.—Title 5, United States Code, is amended—

(1) in section 5312, by inserting “Secretary of Homeland Security.” as a new item after “Affairs.”;

(2) in section 5313, by inserting “Deputy Secretary of Homeland Security.” as a new item after “Affairs.”;

(3) in section 5314, by inserting “Under Secretaries, Department of Homeland Security.”, “Director of the Bureau of Citizenship and Immigration Services,” as new items after “Affairs.” the third place it appears;

(4) in section 5315, by inserting “Assistant Secretaries, Department of Homeland Security.”, “General Counsel, Department of Homeland Security.”, “Officer for Civil Rights and Civil Liberties, Department of Homeland Security.”, “Chief Financial Officer, Department of Homeland Security.”, “Chief Information Officer, Department of Homeland Security.”, and “Inspector General, Department of Homeland Security.” as new items after “Affairs.” the first place it appears; and

(5) in section 5315, by striking “Commissioner of Immigration and Naturalization, Department of Justice.”.

(b) SPECIAL EFFECTIVE DATE.—Notwithstanding section 4, the amendment made by subsection (a)(5) shall take effect on the date on which the transfer of functions specified under section 441 takes effect.

SEC. 1703. UNITED STATES SECRET SERVICE.

(a) IN GENERAL.—(1) The United States Code is amended in section 202 of title 3, and in section 3056 of title 18, by striking “of the Treasury”, each place it appears and inserting “of Homeland Security”.

(2) Section 208 of title 3, United States Code, is amended by striking “of Treasury” each place it appears and inserting “of Homeland Security”.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of transfer of the United States Secret Service to the Department.

SEC. 1704. COAST GUARD.

(a) TITLE 14, U.S.C.—Title 14, United States Code, is amended in sections 1, 3, 53, 95, 145, 516, 666, 669, 673, 673a (as redesignated by subsection (e)(1)), 674, 687, and 688 by striking “of Transportation” each place it appears and inserting “of Homeland Security”.

(b) TITLE 10, U.S.C.—(1) Title 10, United States Code, is amended in sections 101(9), 130b(a), 130b(c)(4), 130c(h)(1), 379, 513(d), 575(b)(2), 580(e)(6), 580a(e), 651(a), 671(c)(2), 708(a), 716(a), 717, 806(d)(2), 815(e), 888, 946(c)(1), 973(d), 978(d), 983(b)(1), 985(a), 1033(b)(1), 1033(d), 1034, 1037(c), 1044d(f), 1058(c), 1059(a), 1059(k)(1), 1073(a), 1074(c)(1), 1089(g)(2), 1090, 1091(a), 1124, 1143, 1143a(h), 1144, 1145(e), 1148, 1149, 1150(c), 1152(a), 1152(d)(1), 1153, 1175, 1212(a), 1408(h)(2), 1408(h)(8), 1463(a)(2), 1482a(b), 1510, 1552(a)(1), 1565(f), 1588(f)(4), 1589, 2002(a), 2302(1), 2306b(b), 2323(j)(2), 2376(2), 2396(b)(1), 2410a(a), 2572(a), 2575(a), 2578, 2601(b)(4), 2634(e), 2635(a), 2734(g), 2734a, 2775, 2830(b)(2), 2835, 2836, 4745(a), 5013a(a), 7361(b), 10143(b)(2), 10146(a), 10147(a), 10149(b), 10150, 10202(b), 10203(d), 10205(b), 10301(b), 12103(b), 12103(d), 12304, 12311(c), 12522(c), 12527(a)(2), 12731(b), 12731a(e), 16131(a), 16136(a), 16301(g), and 18501 by striking “of Transportation” each place

it appears and inserting “of Homeland Security”.

(2) Section 801(1) of such title is amended by striking “the General Counsel of the Department of Transportation” and inserting “an official designated to serve as Judge Advocate General of the Coast Guard by the Secretary of Homeland Security”.

(3) Section 983(d)(2)(B) of such title is amended by striking “Department of Transportation” and inserting “Department of Homeland Security”.

(4) Section 2665(b) of such title is amended by striking “Department of Transportation” and inserting “Department in which the Coast Guard is operating”.

(5) Section 7045 of such title is amended—

(A) in subsections (a)(1) and (b), by striking “Secretaries of the Army, Air Force, and Transportation” both places it appears and inserting “Secretary of the Army, the Secretary of the Air Force, and the Secretary of Homeland Security”; and

(B) in subsection (b), by striking “Department of Transportation” and inserting “Department of Homeland Security”.

(6) Section 7361(b) of such title is amended in the subsection heading by striking “TRANSPORTATION” and inserting “HOMELAND SECURITY”.

(7) Section 12522(c) of such title is amended in the subsection heading by striking “TRANSPORTATION” and inserting “HOMELAND SECURITY”.

(c) TITLE 37, U.S.C.—Title 37, United States Code, is amended in sections 101(5), 204(i)(4), 301a(a)(3), 306(d), 307(c), 308(a)(1), 308(d)(2), 308(f), 308b(e), 308c(c), 308d(a), 308e(f), 308g(g), 308h(f), 308i(e), 309(d), 316(d), 323(b), 323(g)(1), 325(i), 402(d), 402a(g)(1), 403(f)(3), 403(l)(1), 403b(i)(5), 406(b)(1), 417(a), 417(b), 418(a), 703, 1001(c), 1006(f), 1007(a), and 1011(d) by striking “of Transportation” each place it appears and inserting “of Homeland Security”.

(d) TITLE 38, U.S.C.—Title 38, United States Code, is amended in sections 101(25)(d), 1560(a), 3002(5), 3011(a)(1)(A)(ii)(I), 3011(a)(1)(A)(ii)(II), 3011(a)(1)(B)(i)(III), 3011(a)(1)(C)(ii)(II)(cc), 3012(b)(1)(A)(v), 3012(b)(1)(B)(ii)(V), 3018(b)(3)(B)(iv), 3018A(a)(3), 3018B(a)(1)(C), 3018B(a)(2)(C), 3018C(a)(5), 3020(m), 3035(b)(2), 3035(c), 3035(d), 3035(e), 3680A(g), and 6105(c) by striking “of Transportation” each place it appears and inserting “of Homeland Security”.

(e) OTHER DEFENSE-RELATED LAWS.—(1) Section 363 of Public Law 104-193 (110 Stat. 2247) is amended—

(A) in subsection (a)(1) (10 U.S.C. 113 note), by striking “of Transportation” and inserting “of Homeland Security”; and

(B) in subsection (b)(1) (10 U.S.C. 704 note), by striking “of Transportation” and inserting “of Homeland Security”.

(2) Section 721(1) of Public Law 104-201 (10 U.S.C. 1073 note) is amended by striking “of Transportation” and inserting “of Homeland Security”.

(3) Section 4463(a) of Public Law 102-484 (10 U.S.C. 1143a note) is amended by striking “after consultation with the Secretary of Transportation”.

(4) Section 4466(h) of Public Law 102-484 (10 U.S.C. 1143 note) is amended by striking “of Transportation” and inserting “of Homeland Security”.

(5) Section 542(d) of Public Law 103-337 (10 U.S.C. 1293 note) is amended by striking “of Transportation” and inserting “of Homeland Security”.

(6) Section 740 of Public Law 106-181 (10 U.S.C. 2576 note) is amended in subsections (b)(2), (c), and (d)(1) by striking “of Transportation” each place it appears and inserting “of Homeland Security”.

(7) Section 1407(b)(2) of the Defense Dependents’ Education Act of 1978 (20 U.S.C. 926(b)) is amended by striking “of Transportation” both places it appears and inserting “of Homeland Security”.

(8) Section 2301(5)(D) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6671(5)(D)) is amended by striking “of Transportation” and inserting “of Homeland Security”.

(9) Section 2307(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6677(a)) is amended by striking “of Transportation” and inserting “of Homeland Security”.

(10) Section 1034(a) of Public Law 105-85 (21 U.S.C. 1505a(a)) is amended by striking “of Transportation” and inserting “of Homeland Security”.

(11) The Military Selective Service Act is amended—

(A) in section 4(a) (50 U.S.C. App. 454(a)), by striking “of Transportation” in the fourth paragraph and inserting “of Homeland Security”;

(B) in section 4(b) (50 U.S.C. App. 454(b)), by striking “of Transportation” both places it appears and inserting “of Homeland Security”;

(C) in section 6(d)(1) (50 U.S.C. App. 456(d)(1)), by striking “of Transportation” both places it appears and inserting “of Homeland Security”;

(D) in section 9(c) (50 U.S.C. App. 459(c)), by striking “Secretaries of Army, Navy, Air Force, or Transportation” and inserting “Secretary of a military department, and the Secretary of Homeland Security with respect to the Coast Guard,”; and

(E) in section 15(e) (50 U.S.C. App. 465(e)), by striking “of Transportation” both places it appears and inserting “of Homeland Security”.

(f) TECHNICAL CORRECTION.—(1) Title 14, United States Code, is amended by redesignating section 673 (as added by section 309 of Public Law 104-324) as section 673a.

(2) The table of sections at the beginning of chapter 17 of such title is amended by redesignating the item relating to such section as section 673a.

(g) EFFECTIVE DATE.—The amendments made by this section (other than subsection (f)) shall take effect on the date of transfer of the Coast Guard to the Department.

SEC. 1705. STRATEGIC NATIONAL STOCKPILE AND SMALLPOX VACCINE DEVELOPMENT.

(a) IN GENERAL.—Section 121 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107-188; 42 U.S.C. 300hh-12) is amended—

(1) in subsection (a)(1)—

(A) by striking “Secretary of Health and Human Services” and inserting “Secretary of Homeland Security”;

(B) by inserting “the Secretary of Health and Human Services and” between “in coordination with” and “the Secretary of Veterans Affairs”; and

(C) by inserting “of Health and Human Services” after “as are determined by the Secretary”; and

(2) in subsections (a)(2) and (b), by inserting “of Health and Human Services” after “Secretary” each place it appears.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of transfer of the Strategic National Stockpile of the Department of Health and Human Services to the Department.

SEC. 1706. TRANSFER OF CERTAIN SECURITY AND LAW ENFORCEMENT FUNCTIONS AND AUTHORITIES.

(a) AMENDMENT TO TITLE 40.—Section 581 of title 40, United States Code, is amended—

(1) by striking subsection (a); and

(2) in subsection (b)—

(A) by inserting “and” after the semicolon at the end of paragraph (1);

(B) by striking “; and” at the end of paragraph (2) and inserting a period; and

(C) by striking paragraph (3).

(b) LAW ENFORCEMENT AUTHORITY.—

(1) IN GENERAL.—Section 1315 of title 40, United States Code, is amended to read as follows:

“§ 1315. Law enforcement authority of Secretary of Homeland Security for protection of public property

“(a) IN GENERAL.—To the extent provided for by transfers made pursuant to the Homeland Security Act of 2002, the Secretary of Homeland Security (in this section referred to as the ‘Secretary’) shall protect the buildings, grounds, and property that are owned, occupied, or secured by the Federal Government (including any agency, instrumentality, or wholly owned or mixed-ownership corporation thereof) and the persons on the property.

“(b) OFFICERS AND AGENTS.—

“(1) DESIGNATION.—The Secretary may designate employees of the Department of Homeland Security, including employees transferred to the Department from the Office of the Federal Protective Service of the General Services Administration pursuant to the Homeland Security Act of 2002, as officers and agents for duty in connection with the protection of property owned or occupied by the Federal Government and persons on the property, including duty in areas outside the property to the extent necessary to protect the property and persons on the property.

“(2) POWERS.—While engaged in the performance of official duties, an officer or agent designated under this subsection may—

“(A) enforce Federal laws and regulations for the protection of persons and property;

“(B) carry firearms;

“(C) make arrests without a warrant for any offense against the United States committed in the presence of the officer or agent or for any felony cognizable under the laws of the United States if the officer or agent has reasonable grounds to believe that the person to be arrested has committed or is committing a felony;

“(D) serve warrants and subpoenas issued under the authority of the United States; and

“(E) conduct investigations, on and off the property in question, of offenses that may have been committed against property owned or occupied by the Federal Government or persons on the property.

“(F) carry out such other activities for the promotion of homeland security as the Secretary may prescribe.

“(c) REGULATIONS.—

“(1) IN GENERAL.—The Secretary, in consultation with the Administrator of General Services, may prescribe regulations necessary for the protection and administration of property owned or occupied by the Federal Government and persons on the property. The regulations may include reasonable penalties, within the limits prescribed in paragraph (2), for violations of the regulations. The regulations shall be posted and remain posted in a conspicuous place on the property.

“(2) PENALTIES.—A person violating a regulation prescribed under this subsection shall be fined under title 18, United States Code, imprisoned for not more than 30 days, or both.

“(d) DETAILS.—

“(1) REQUESTS OF AGENCIES.—On the request of the head of a Federal agency having charge or control of property owned or occupied by the Federal Government, the Secretary may detail officers and agents designated under this section for the protection of the property and persons on the property.

“(2) APPLICABILITY OF REGULATIONS.—The Secretary may—

“(A) extend to property referred to in paragraph (1) the applicability of regulations prescribed under this section and enforce the regulations as provided in this section; or

“(B) utilize the authority and regulations of the requesting agency if agreed to in writing by the agencies.

“(3) FACILITIES AND SERVICES OF OTHER AGENCIES.—When the Secretary determines it to be economical and in the public interest, the Secretary may utilize the facilities and services of Federal, State, and local law enforcement agencies, with the consent of the agencies.

“(e) AUTHORITY OUTSIDE FEDERAL PROPERTY.—For the protection of property owned or occupied by the Federal Government and persons on the property, the Secretary may enter into agreements with Federal agencies and with State and local governments to obtain authority for officers and agents designated under this section to enforce Federal laws and State and local laws concurrently with other Federal law enforcement officers and with State and local law enforcement officers.

“(f) SECRETARY AND ATTORNEY GENERAL APPROVAL.—The powers granted to officers and agents designated under this section shall be exercised in accordance with guidelines approved by the Secretary and the Attorney General.

“(g) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to—

“(1) preclude or limit the authority of any Federal law enforcement agency; or

“(2) restrict the authority of the Administrator of General Services to promulgate regulations affecting property under the Administrator’s custody and control.”.

(2) DELEGATION OF AUTHORITY.—The Secretary may delegate authority for the protection of specific buildings to another Federal agency where, in the Secretary’s discretion, the Secretary determines it necessary for the protection of that building.

(3) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 13 of title 40, United States Code, is amended by striking the item relating to section 1315 and inserting the following:

“1315. Law enforcement authority of Secretary of Homeland Security for protection of public property.”.

SEC. 1707. TRANSPORTATION SECURITY REGULATIONS.

Title 49, United States Code, is amended—(1) in section 114(1)(2)(B), by inserting “for a period not to exceed 90 days” after “effective”; and

(2) in section 114(1)(2)(B), by inserting “ratified or” after “unless”.

SEC. 1708. NATIONAL BIO-WEAPONS DEFENSE ANALYSIS CENTER.

There is established in the Department of Defense a National Bio-Weapons Defense Analysis Center, whose mission is to develop countermeasures to potential attacks by terrorists using weapons of mass destruction.

SEC. 1709. COLLABORATION WITH THE SECRETARY OF HOMELAND SECURITY.

(a) DEPARTMENT OF HEALTH AND HUMAN SERVICES.—The second sentence of section 351A(e)(1) of the Public Health Service Act (42 U.S.C. 262A(e)(1)) is amended by striking “consultation with” and inserting “collaboration with the Secretary of Homeland Security and”.

(b) DEPARTMENT OF AGRICULTURE.—The second sentence of section 212(e)(1) of the Agricultural Bioterrorism Protection Act of 2002 (7 U.S.C. 8401) is amended by striking “consultation with” and inserting “collaboration with the Secretary of Homeland Security and”.

SEC. 1710. RAILROAD SAFETY TO INCLUDE RAILROAD SECURITY.

(a) INVESTIGATION AND SURVEILLANCE ACTIVITIES.—Section 20105 of title 49, United States Code, is amended—

(1) by striking “Secretary of Transportation” in the first sentence of subsection (a) and inserting “Secretary concerned”;

(2) by striking “Secretary” each place it appears (except the first sentence of subsection (a)) and inserting “Secretary concerned”;

(3) by striking “Secretary’s duties under chapters 203–213 of this title” in subsection (d) and inserting “duties under chapters 203–213 of this title (in the case of the Secretary of Transportation) and duties under section 114 of this title (in the case of the Secretary of Homeland Security)”;

(4) by striking “chapter.” in subsection (f) and inserting “chapter (in the case of the Secretary of Transportation) and duties under section 114 of this title (in the case of the Secretary of Homeland Security).”; and

(5) by adding at the end the following new subsection:

“(g) DEFINITIONS.—In this section—
“(1) the term ‘safety’ includes security; and

“(2) the term ‘Secretary concerned’ means—

“(A) the Secretary of Transportation, with respect to railroad safety matters concerning such Secretary under laws administered by that Secretary; and

“(B) the Secretary of Homeland Security, with respect to railroad safety matters concerning such Secretary under laws administered by that Secretary.”.

(b) REGULATIONS AND ORDERS.—Section 20103(a) of such title is amended by inserting after “1970.” the following: “When prescribing a security regulation or issuing a security order that affects the safety of railroad operations, the Secretary of Homeland Security shall consult with the Secretary.”.

(c) NATIONAL UNIFORMITY OF REGULATION.—Section 20106 of such title is amended—

(1) by inserting “and laws, regulations, and orders related to railroad security” after “safety” in the first sentence;

(2) by inserting “or security” after “safety” each place it appears after the first sentence; and

(3) by striking “Transportation” in the second sentence and inserting “Transportation (with respect to railroad safety matters), or the Secretary of Homeland Security (with respect to railroad security matters).”.

SEC. 1711. HAZMAT SAFETY TO INCLUDE HAZMAT SECURITY.

(a) GENERAL REGULATORY AUTHORITY.—Section 5103 of title 49, United States Code, is amended—

(1) by striking “transportation” the first place it appears in subsection (b)(1) and inserting “transportation, including security.”;

(2) by striking “aspects” in subsection (b)(1)(B) and inserting “aspects, including security.”; and

(3) by adding at the end the following:

“(C) CONSULTATION.—When prescribing a security regulation or issuing a security order that affects the safety of the transportation of hazardous material, the Secretary of Homeland Security shall consult with the Secretary.”.

(b) PREEMPTION.—Section 5125 of that title is amended—

(1) by striking “chapter or a regulation prescribed under this chapter” in subsection (a)(1) and inserting “chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security”;

(2) by striking “chapter or a regulation prescribed under this chapter.” in subsection (a)(2) and inserting “chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security.”; and

(3) by striking “chapter or a regulation prescribed under this chapter.” in subsection (b)(1) and inserting “chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security.”.

SEC. 1712. OFFICE OF SCIENCE AND TECHNOLOGY POLICY.

The National Science and Technology Policy, Organization, and Priorities Act of 1976 is amended—

(1) in section 204(b)(1) (42 U.S.C. 6613(b)(1)), by inserting “homeland security,” after “national security.”; and

(2) in section 208(a)(1) (42 U.S.C. 6617(a)(1)), by inserting “the Office of Homeland Security,” after “National Security Council.”.

SEC. 1713. NATIONAL OCEANOGRAPHIC PARTNERSHIP PROGRAM.

Section 7902(b) of title 10, United States Code, is amended by adding at the end the following new paragraphs:

“(13) The Under Secretary for Science and Technology of the Department of Homeland Security.

“(14) Other Federal officials the Council considers appropriate.”.

SEC. 1714. CLARIFICATION OF DEFINITION OF MANUFACTURER.

Section 2133(3) of the Public Health Service Act (42 U.S.C. 300aa–33(3)) is amended—

(1) in the first sentence, by striking “under its label any vaccine set forth in the Vaccine Injury Table” and inserting “any vaccine set forth in the Vaccine Injury table, including any component or ingredient of any such vaccine”;

(2) in the second sentence, by inserting “including any component or ingredient of any such vaccine” before the period.

SEC. 1715. CLARIFICATION OF DEFINITION OF VACCINE-RELATED INJURY OR DEATH.

Section 2133(5) of the Public Health Service Act (42 U.S.C. 300aa–33(5)) is amended by adding at the end the following: “For purposes of the preceding sentence, an adulterant or contaminant shall not include any component or ingredient listed in a vaccine’s product license application or product label.”.

SEC. 1716. CLARIFICATION OF DEFINITION OF VACCINE.

Section 2133 of the Public Health Service Act (42 U.S.C. 300aa–33) is amended by adding at the end the following:

“(7) The term ‘vaccine’ means any preparation or suspension, including but not limited to a preparation or suspension containing an attenuated or inactive microorganism or subunit thereof or toxin, developed or administered to produce or enhance the body’s immune response to a disease or diseases and includes all components and ingredients listed in the vaccine’s product license application and product label.”.

SEC. 1717. EFFECTIVE DATE.

The amendments made by sections 1714, 1715, and 1716 shall apply to all actions or proceedings pending on or after the date of enactment of this Act, unless a court of competent jurisdiction has entered judgment (regardless of whether the time for appeal has expired) in such action or proceeding disposing of the entire action or proceeding.

The SPEAKER pro tempore. Pursuant to House Resolution 600, the gentleman from Texas (Mr. ARMEY) and, without objection, the gentleman from

California (Mr. WAXMAN) each will control 30 minutes.

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Texas (Mr. ARMEY).

GENERAL LEAVE

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 5710 and to insert extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ARMEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, what we are doing now is revisiting the issue of homeland defense. You will recall, Mr. Speaker, that in June the President challenged Congress to pass such a bill, and we went to work on it with a select committee appointed by the Speaker and the minority leader. On July 23 of this year the House passed H.R. 5005 by a vote of 295 to 132, more than two-thirds of the House.

Mr. Speaker, since that time we have waited upon the other body in terms of our hopes to have this work completed, and just last Friday the President again challenged Congress to work on this bill. During this period of time, from last Friday until today, we have had extensive consultation between Members of this body on the select committee, the committee of jurisdiction, the President, Members of the other body, and all of the committees that have jurisdiction on this bill.

In light of some of the concerns that we knew were fairly well known to us on the other side of the building, we were able to very quickly move through those issues that still remain, fully vet them with all interested parties, including the committees of jurisdiction in both bodies, and work out what we believe will be in the form of the bill before us right now a bill that can comfortably pass both bodies and be sent to the President for signature.

I should mention, Mr. Speaker, that this bill is essentially the same bill that was passed by the House of Representatives last July. There have been a few modifications that have been made to the bill but nothing that has not been fully vetted with the committees of jurisdiction and little that Members of this body will find objectionable.

Mr. Speaker, I reserve the balance of my time.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I agree we need homeland security legislation. It is clear that the Federal Departments are not working together as they should to protect our Nation. Unfortunately, the bill that we are considering today has serious flaws. In fact, I think it may cause more problems than it solves.

I want to show two charts to this body. Here is how our homeland security agencies are organized today. This

one right here. You can see all the different Departments. And the next chart over here is how they will be organized after the new Department is created. We are getting more bureaucracy. We are doing so at a tremendous cost to the taxpayer.

According to the Congressional Budget Office, just creating and managing the new Department will cost \$4.5 billion, and this does not include any additional spending to make our Nation more secure against terrorist attacks. This bill gives the new Department a vast array of responsibilities that have nothing to do with homeland security, such as administering the national flood insurance program and cleaning up oil spills.

This bloats the size of the bureaucracy and dilutes the Department's counterterrorism mission. At the same time, the bill has no effective mechanism to coordinate the activities of the new Department with those of the FBI and the CIA and the other agencies that continue to have major homeland security functions.

I opposed this bill when it was before the House in July. I had hoped that it would be improved by a deliberative process before it was brought back for final passage, but instead we were given a massive new bill this morning that is being rushed through the House with no opportunity for deliberation and amendment. We do not even know the full implications of what we are doing in this bill.

Now, I want to talk about one of the hidden provisions we found buried in this massive bill today. Section 304 severely restricts the abilities of persons killed or injured by the small pox vaccine to receive any form of compensation. In fact, if you do not take the vaccine, but are disfigured or blinded because of your contact with someone who did, your ability to receive compensation is severely curtailed. Now think about this for a minute. This was not in the House-passed bill. This was not in the bill considered on the Senate floor. Suddenly this bill appears with this provision in it.

Now, I authored the vaccine compensation system that compensates children who may be injured when they get a vaccine where there is a bad result. But what we are saying in this hidden provision in the fine print is if you are hurt, you are out of luck. The vaccine manufacturer is going to be protected. The vaccine manufacturer for all practical purposes is going to be immune from liability.

Now this may be a legitimate decision on which we can have a disagreement, but I would feel differently had it been brought up honestly, up front, debated. I cannot believe that more than 10 people in the Congress even know that this provision is in the bill to create a Department of Homeland Security. I feel that this is a special interest provision and should not have been brought up in this particular way.

Another new provision reverses the policy adopted overwhelmingly by the

House that prohibited the new Department from contracting with expatriate companies that have fled the United States to avoid paying their taxes. There was an overwhelming vote in the House, a bipartisan vote, to say to those companies that fled this Nation to act as if they are a foreign nation so they would not have to pay taxes would not be permitted to contract with the Department of Homeland Security. Well, now we got this bill and that provision is missing.

Moreover, the most egregious special interest provisions from the House bill remain in this legislation. The bill gives immunity to companies that make faulty bomb detectors, gas masks, or other homeland security products even if they engage in intentional wrong doing. Can you imagine that? The bill also allows large campaign contributors to lobby the new Department for special favors in absolute secret. We used to have a Freedom of Information Act that could get this information out before the public, and now we have a new exception created to the Freedom of Information Act that would allow these secret negotiations.

While the fine print of the bill contains loopholes and special amenities for corporate America, Federal workers take it on the chin. Their right to engage in collective bargaining is eliminated. They are no longer guaranteed the right to appeal grievances to the Merit System Protection Board.

I do not know what we are thinking. This new Department, this new bureaucracy will not work without dedicated Federal workers. Yet this bill treats them like second-class citizens, and this bill also rebuffs the families of the victims of September 11. All they asked for was an independent commission to examine what happened on September 11. But although this commission won overwhelming bipartisan support in the Senate, it was suddenly dropped from the bill.

There is an old adage that those who do not remember the past are condemned to repeat it, but that is what we are doing today. The Department of Energy was created 25 years ago, and it is still dysfunctional. The Department of Transportation was created 35 years ago, but it still has major structural problems; and it took nearly 40 years for the reorganization of the Department of Defense to work.

When we consider a bill like this, there is a temptation to ignore the defects and just vote for it; and perhaps, most likely, that is what will happen tonight. But voting against this bill could be politically damaging sometime in the future. But some things are more important than politics. Genuinely enhancing our national security is more important than politics, and getting this bill right is more important than politics.

Mr. Speaker, we should come back next year and make sure we create this new Department in the best way possible.

Mr. Speaker, I reserve the balance of my time.

Mr. ARMEY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. THORNBERRY), an early leader in the effort to create such a Department as this.

Mr. THORNBERRY. Mr. Speaker, I thank the majority leader for yielding me time, and I thank him for his work on this measure. It may well be his most important contribution to the safety and security of his grandchildren. I also want to appreciate the staff who have worked so long and hard to make this possible.

Mr. Speaker, having worked on this issue for close to 2 years, I have had many doubts that it would ever come to this point; but now I believe it will happen.

□ 1845

This is not a perfect bill, and it is relatively easy for me and others to find fault, ways that we wish it would be different. But all of those individual differences we may have with provisions are no competition in my mind to the fact that time is slipping by. If we do not do it this week, we are at least 3 months further along, 3 months during which our enemies are plotting and planning against us, more time during which we are not as prepared as we could and should be, more months where we are not making preparations to protect ourselves.

Time is a critical factor. Just yesterday we had another threat, and whether it is bin Laden's voice or not, it is clear it is someone who intends to kill more Americans. He is very explicit in the threat. We cannot sit by and have differences over this provision or that provision keep us from acting.

Mr. Speaker, organizational reform is no panacea. It does not solve all of the problems with the FBI or the CIA. It does not do everything, but what it can do is take 22 agencies, existing agencies that are scattered around the government, bring them together under one chain of command so we can actually work together as a team and make things happen.

That does not mean it solves all of our problems, but it is an important step. It does not create more bureaucracy, it tries to get a handle on the bureaucracy we have and make it work more effectively. It is an important step for us to take tonight. Hopefully the other body will follow suit and the President can sign it into law so we can begin to make this country safer.

Mr. WAXMAN. Mr. Speaker, I yield 3½ minutes to the gentleman from Ohio (Mr. KUCINICH), a very important member of our committee.

Mr. KUCINICH. Mr. Speaker, I want to thank the gentleman from California (Mr. WAXMAN) for the time he has spent in pointing out that this reorganization really has not made the case that America is going to be safer once this bill passes. As a matter of fact, as the gentleman points out,

there is good reason to believe that a reorganization that will take at least 10 years and possibly more would cause a delay in real measures that could be taken to make this country somewhat safer. The American people want to feel safer; and 12,000 people in the last year were killed by handguns. This bill will not help them. Nor will it help the thousands of other Americans who die of violent crimes each year in this country.

What we have here is a paradoxical condition where the party which has gained the trust and support of the American people because of their challenge to big government suddenly becomes the party of big government advocating big government without really big services, big costs without big benefits, big security promises without big protections.

Americans ought to be concerned that we have the largest government department being created here in years without any indication as to how long the people of this country are going to have to wait to be safer.

So what is the alternative? One immediate alternative would be to provide more funds for local law enforcement. Every one of us knows that inevitably law enforcement in this country falls to the responsibility of the people at the local level. They know the communities. That is where we ought to be putting the billions of dollars that are going into creating a new bureaucracy.

There are a few other issues. Public safety depends on truth telling, exposing bureaucratic failings and busting cover-ups. The truth tellers are civil servants who blow the whistle, and in the largest Federal agency of all time being created today surely there are whistles to be blown, but this bill has dropped the protections. Our committee sat hours on end trying to ensure protections for whistleblowers. We passed the protections out of committee. They were stripped out of the bill.

Today if someone blows the whistle, is legally fired, they will not be able to get their job back or receive damages for unlawful firing. Whistleblower protection is critical for homeland security; without such protections, this bill fails.

In addition to that, we are talking about creating 22 different agencies into one large entity. That does not constitute efficient and effective government. I urge Members to vote no.

Before I conclude, the gentleman from California (Mr. WAXMAN) pointed out something about section 304(c) of the bill. I received a note from the American Association of Physicians and Surgeons, and they raise serious questions about the Secretary having unlimited power to define a real or potential threat to take any measures he decides, or to do it for as long as he wants. These are questions which have been raised about the administration of countermeasures against smallpox,

will there be quarantines for smallpox immunizations, the definition of a bioterrorist incident. The American people need to know if this legislation is going to result in millions of Americans being forced to take smallpox immunizations and not having any legal protections if they are injured by those vaccinations.

Mr. ARMEY. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. WELDON), an extremely well-informed member of our Committee on Armed Services.

(Mr. WELDON of Pennsylvania asked and was given permission to revise and extend his remarks.)

Mr. WELDON of Pennsylvania. Mr. Speaker, the only tragedy in this debate is it has taken us 12 months after 9/11 to move on organizing our homeland security and 5 months after the President challenged us with a plan to bring together 22 agencies with 170,000 employees and a \$38 billion budget.

The only tragedy is we passed this in June and here we are today finally getting around to doing the job of the American people. This may not be a perfect plan, but I can guarantee this is better than what we had before 9/11, and even what we have today. It addresses the issue of coordinating our intelligence.

In fact, one of the four key components of this new agency is something we in Congress called for in 1999 and 2000 and which the administration back then looked at us and laughed. It is required in this plan to have a coordination of intelligence and data fusion. This plan provides for support for our first responders. In fact, for the first time, the President has called for \$3.5 billion of new money to support local emergency responders, police, fire, and EMS. It provides for transportation security and the transfer of technology and the research necessary to understand emerging threats like chemical and biological weapons.

This new piece of legislation finally implements a program that we paid for back in 1997 to use our satellites above to detect wildland fires so we can go into those areas of the West and deal with them immediately. That should have been done 5 years ago. This plan provides for that through a provision that was added in the final conference.

Mr. Speaker, I think of the firefighters across America who to this day cannot communicate with each other because they are on different frequencies, and we say we want more time. They do not have more time. The time to pass this bill is tonight. Hopefully it will pass with overwhelming bipartisan support, and then we will take the next step, and the next step is to deal with the oversight jurisdiction, and that is the role of the Congress.

Mr. WAXMAN. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois (Mr. DAVIS), the ranking member of the Subcommittee on Civil Service, Census, and Agency Organization.

Mr. DAVIS of Illinois. Mr. Speaker, I am pleased to see homeland security

under serious consideration, but as a member of the Subcommittee on Civil Service, Census and Agency Organization, as one who has looked closely at this legislation, I am very concerned about provisions in this proposal that would grant the Secretary of the Department of Homeland Security and the Director of Personnel Management blanket authority to set pay and other conditions of employment without regard to existing civil service rules and protections.

As a matter of fact, passage of this bill could in fact diminish or take away hard-won worker rights and protections that it has taken years and years of blood, sweat and tears to achieve. This bill which purports to be a compromise would permit administration officials to completely disregard civil service laws in hiring, firing, promoting and setting pay for more than 170,000 employees from 22 agencies that will make up the new agency.

Today these employees are not subject to the whims of agency officials when it comes to their pay promotions and collective bargaining rights, but tomorrow they could be. While this compromise legislation may be a victory for the President, it is a defeat for the men and women who go to work every day to serve and protect their country. Many of us have fought to develop and promote safeguards for small businesses and small business development. I am also disappointed that a provision that would have ensured that small businesses were considered and included in contracts awarded by the new department was omitted from the bill.

A provision that would have established an Office of Small Business and Disadvantaged Business Utilization in the Department of Homeland Security was included in the original bill passed by the House but has been excluded from this bill.

Federal workers, small and disadvantaged businesses, and real compromise have all fallen victim to the imbalance of power that looms ahead in the legislative and executive branches of government. Passage of this bill will cause insecurity among workers and small business owners as they see themselves set back in the name of homeland security. I urge my colleagues to oppose this legislation and vote no.

Mr. ARMEY. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER), chairman of the Committee on the Judiciary, a committee of jurisdiction.

Mr. SENSENBRENNER. Mr. Speaker, the most important part of this bill is its dismantling of the dysfunctional Immigration and Naturalization Service. The bill abolishes the agency and separates immigration enforcement from immigration services, the key to reform.

The immigration enforcement half of the INS becomes the Bureau of Border Security in the Directorate of Border and Transportation Security. The head

of the enforcement bureau, the Assistant Secretary, will report to the Under Secretary of Border and Transportation Security and must have 5 years of law enforcement experience and 5 years of management experience. This work experience requirement will ensure that immigration enforcement is headed by someone with the expertise to enforce our immigration laws. The separation of this function from immigration services will allow the Assistant Secretary to focus on a single mission.

As current events have shown with the July 4 Los Angeles Airport shooter, Lee Malvo, and other recent alien criminals who have been released by the INS, an unencumbered immigration enforcement unit is long overdue.

The equally important immigration services half of the INS becomes the Bureau of Citizenship and Immigration Services apart from other DHS components. The Director of the services bureau reports directly to the Deputy Secretary of Homeland Security. This will ensure that immigration services receives the attention and resources that it needs, and that it will not be forgotten and neglected in a department otherwise devoted to fighting terrorism. Our government must remain welcoming to immigrants who follow our laws.

In addition, the bill requires separate budgets and accounts for the immigration services and enforcement bureaus so that each bureau receives all of its designated money and no poaching occurs, as has been known to happen between the two components in the current INS.

While the bill permits the President to consolidate components within the two bureaus to make them more efficient, it prohibits the President from merging the two bureaus back into one agency. This should ensure that the INS as we know it is history and our years-long effort to restructure this failed agency will be accomplished.

Mr. Speaker in addition to the monumental immigration and border security reforms contained in this bill, this legislation will profoundly affect Federal law enforcement. This legislation moves the Secret Service, Customs Service, Coast Guard, Border Patrol, Office of Domestic Preparedness, Federal Law Enforcement Training Center, and other law enforcement functions into the DHS.

□ 1900

At its core, homeland security is a law enforcement function, and law enforcement should be the predominant role. The Committee on the Judiciary will closely follow the integration of these important law enforcement entities to make sure they have the support and authority that they need to protect the country from terrorism and other criminal enterprises.

Finally, this legislation moves the law enforcement function of the Bureau of Alcohol, Tobacco, and Firearms

to the Department of Justice as a distinct entity and makes important changes to the way we enforce explosives law and regulations.

I urge the membership to support this bill.

Mr. WAXMAN. Mr. Speaker, I am pleased to yield 4½ minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. I thank the very distinguished ranking member of the Committee on Government Reform for yielding me this time.

Mr. Speaker, I rise in opposition to this legislation on several grounds. Up until now, this proposal has been heavy on message but troubling in its substance. Unlike the rhetoric, approval of this legislation will have some real consequences for the Federal agencies we are about to reshuffle, the 170,000 Federal employees who work for these affected agencies, and the American people.

Its origins are telling. You may recall that the Office of Homeland Security was created by an executive order on October 8, 2001. Unfortunately its director, Governor Ridge, was barred by the President from testifying before Congress, overruled in White House councils, and preempted by more powerful Cabinet members. Then as public opinion began to sour against an administration that refused to even let Governor Ridge testify in public before the Congress, the administration reversed itself and after some reshuffling of Federal agencies on chalkboards in the basement of the White House, the administration proposed the creation of the Department of Homeland Defense.

It is a clever proposal, but it is not the solution. We are in a war against a new and deadly threat, and we need the resources abroad both for our diplomats to build alliances and for our armed services to prosecute this war. And at home we need the resources to protect our citizens. If we were serious about this threat, we would see a budget. But we just passed another continuing resolution that keeps everything funded at spending levels that were proposed and approved more than 18 months ago, a budget developed before September 11, 2001.

Where is the money for first responders? \$2.6 billion is what is needed and what the President's party just voted against this afternoon. Where is the money for the Transportation Security Administration, which assumed responsibility for airport security in just 6 days, on November 19? Where is the money to improve border security or hire more FBI agents? It is not there because we have not passed the fiscal 2003 appropriation bills, as the gentleman from California (Mr. WAXMAN) has made clear.

Instead, we are now considering a proposal to incorporate 22 existing Federal agencies and transfer more than 170,000 Federal employees. I am not sure that consolidating Federal agencies is sufficient to address the chal-

lenges that confront us. The difficulty in stitching together vast and disparate organizational cultures has overwhelmed some of the best CEOs in the private sector. It is a process that most CEOs will tell you takes years to complete and more resources than previously assumed. CBO estimates it will take 5 to 10 years to get this new agency up and running. This effort is going to divert us from the important task of protecting this Nation from possible future attacks. It may strengthen the lines of communication and accountability, but it does not provide the resources to get the job done.

The bipartisan Commission on National Security found that the Customs Service, the Border Patrol, and the Coast Guard were all on the verge of being overwhelmed by a mismatch between their growing duties and their mostly static resources. There are less than 7,000 customs inspectors and 619 canine officers to screen thousands of cargo containers and hundreds of thousands of vehicles entering the United States every day. Historically, most of these agencies have been starved of the resources they need to effectively carry out their mission. With 170,000 civil servants, they are going to have difficulty establishing a coherent and effective mission.

To be successful, we need to offer superior resources, equipment, and training. The workforce has to be given the incentive and expectation to improve performance. At a minimum, the new Department ought to be able to offer its employees pay parity and benefits. These adjustments are certain to add additional costs.

So why is the White House not asking for passage of the 2003 budget? That is what the White House ought to be asking us to do. The only response we have heard is that this reshuffling of agencies is going to be budget neutral.

It raises more questions than it answers. How are the agencies going to respond to programs that have nothing to do with homeland security? The Coast Guard's role in maritime safety and FEMA's role in national disasters are just a couple of examples. The CIA, the FBI and other intelligence agencies, they are the ones that are going to be gathering data. There is no access to raw data that these intelligence agencies monitor on the part of the Department of Homeland Security.

I do not think this is a good proposal. It ought to be opposed. We ought to come up with something better, and we ought to give what is better the resources necessary to carry out their function.

Mr. ARMEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Mrs. TAUSCHER), an original sponsor of this bill and one of the early innovators in the notion of homeland security.

Mrs. TAUSCHER. Mr. Speaker, I rise in support of this bill. This legislation is not perfect, but we must streamline the current bureaucracy if we are going

to protect the American people. I have been working for more than a year to create a Cabinet-level Department of Homeland Security. I would like to applaud the gentleman from Texas (Mr. THORNBERRY) for his prescient knowledge about this issue and for taking the Hart-Rudman report 6 months before September 11 and crafting good legislation that we could follow.

This legislation today accomplishes that by bringing together the homeland security components of our government, including the national laboratories, Coast Guard, Border Patrol, and first responders. I am glad that this bill gives the TSA flexibility to allow larger airports like Oakland, San Francisco, San Jose and Sacramento more time to configure their explosive detection systems. This will save commuters from long lines and ensure that limited resources are being spent on the best equipment available. I also support the extension of war risk insurance for the aviation industry that is included in this bill.

To those that claim that this bill will only create a bigger government, I say this is not about making more bureaucracy, this is about making the bureaucracy work better. To those that think it is far from perfect, I say, I agree. I am concerned that this bill does not create a center to analyze intelligence inside the new agency. And I am deeply concerned that this bill could allow the President to weaken the labor protections of civil service employees. But this bill is just a starting point, and I am committed to work to fix these issues.

We must take this important step toward coordinating the dozens of government agencies responsible for fighting terrorism. Just as we must transform our military to be lighter, faster and more lethal at the time of asymmetrical threats, we must transform this Federal bureaucracy to be more responsive to threats to the homeland.

I urge my colleagues to support this bill, and I urge this Congress to continue to work to cure this bill.

Mr. WAXMAN. Mr. Speaker, I yield 2 minutes to the gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Speaker, I thank the gentleman for yielding me this time. Who could be against homeland security? I guess anybody out there in the public would want to know why should there even be a debate about what we do about homeland security. But the reality is that all of us are for homeland security. The question is how do we get there. That is what this debate is all about.

About 2 weeks ago I participated in a debate on homeland security at Case Western Reserve University in my congressional district. On the panel with me was a gentleman from GAO and a professor who has looked over departments and consolidation over the years. One of the things that the professor raised was the fact that even with this new Department of Homeland

Security, there are going to be so many more responsibilities placed on local governments, at the State level, at the county level, at the Federal level. And in this bill, though it is presumed that it is, there are not dollars there to support these local agencies to do that job.

When I think about it, and we thought about it in the session, if something happens in Cleveland, Ohio, I am not going to call the FBI; I am going to call 911, and 911 is going to call the Cleveland Police Department. But in this legislation, I do not believe there is adequate increase of dollars going to cities. It would have been nice when we had the opportunity to continue the COPS program that we had given or designated more dollars to local police departments. Another question I have is coordination. Another question I have is this whole issue of public employees who have given their time and effort to the Federal Government losing their labor rights as a result of a consolidation.

I think that all of us are concerned about homeland security, that all of us want to tell this world and the people that live in the United States that we are going to protect them. But before we rush down the line to make a decision on this new 170,000-person Department of Homeland Security, we must make a commitment to the people of the United States that we are really going to secure their homeland.

Mr. ARMEY. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Missouri (Mr. BLUNT) and, with heartfelt congratulations, the whip-elect, for the purpose of having a colloquy with the distinguished gentleman from Alaska, the chairman of the Committee on Transportation and Infrastructure.

Mr. BLUNT. Mr. Speaker, I thank the majority leader for his kind comments and for yielding me the time.

I would like to engage in a short discussion with Chairman YOUNG on two issues which are very important to me and I feel need some clarification. This relates to the training of pilots to carry firearms in the cockpit of our commercial airlines and to the training of cabin crew members in self-defense methods. As the House knows, these provisions were included in this bill; and I feel they are important provisions. However, I want to make clear in my own mind and in the record that these programs are not intended to be a new cost factor for the Federal Government or for our economically challenged airline industry. I understand they are voluntary. Just as our Constitution protects the rights of all citizens to own firearms for self-protection, we have provided the ability for airline pilots to voluntarily request that they be allowed to carry firearms for the protection of their passengers and crew while performing their duties in flight and other cabin crew to be trained in self-defense methods if they choose to do so. Nevertheless, I want to make sure the following is completely clear:

One, the Federal Government and air carriers are not obligated to compensate a pilot or cabin crew member for participating in any training program, qualification or requalification to carry a firearm or to train in self-defense. Again, the word there is "obligated." It does not mean that they cannot do it at the airline level, but they are not obligated to do it. And, number two, these training programs cannot be an excuse or reason to disrupt or otherwise interfere with any carrier's scheduled service. Therefore, an air carrier will certainly not be required to disrupt its scheduled service to accommodate a flight crew member's training after that crew member has already been scheduled for duty. These sections are not intended to cause further operational burdens on the airline industry. I just want to be sure in my own mind in this discussion with Chairman YOUNG that I understand what this does in a proper way.

Mr. YOUNG of Alaska. Mr. Speaker, will the gentleman yield?

Mr. BLUNT. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Speaker, this gentleman, of course, is the chairman of the Committee on Transportation and Infrastructure. I agree with the gentleman's points. As the sponsor of the original bill for allowing the pilots to be armed in the cockpit, this is neither a mandate to disrupt schedules nor a requirement that either the Federal Government or air carrier compensate any crew member for these voluntary programs. I want to stress voluntary programs. It just gives a chance for the pilots themselves to arm and to properly train.

Mr. BLUNT. I thank the gentleman for that clarification.

Mr. WAXMAN. Mr. Speaker, I yield 3 minutes to the gentlewoman from Florida (Ms. BROWN).

(Ms. BROWN of Florida asked and was given permission to revise and extend her remarks.)

Ms. BROWN of Florida. Mr. Speaker, I do have a question for Chairman YOUNG at the appropriate time. I want to make my statement and put it in the RECORD, but on that same subject as far as the gun provision as put in the RECORD and the colloquy, can you clarify for me whether or not these pilots are going to be trained to carry these guns and how will it affect the public if the pilot accidentally kills someone?

Mr. YOUNG of Alaska. If my good friend will yield, I can suggest to her respectfully, under the bill they have to have the training; and I would rather have my pilot be armed and defend that cockpit as against an F-16 to be shot down. That is the whole intent. So in the bill they are trained, yes. All this says is that it is a voluntary process they go through, but the training is necessary.

Ms. BROWN of Florida. But they will be trained?

Mr. YOUNG of Alaska. Oh, absolutely.

Ms. BROWN of Florida. Yes, sir.

Let me just say as far as the bill is concerned that it is still the same flawed bill that this House passed in August. The problems with creating an agency of this size are still there. I do not see any new solutions. This bill is still taking agencies with important non-homeland security duties and placing them in agencies with no mission statement.

□ 1915

The first agency to respond to the terrorist acts of September 11 was the United States Coast Guard. Within minutes, they were guarding our ports, bridges, and waterways from home. It was so reassuring to know that they were out there protecting us while other agencies were still in shock, all under the supervision, by the way, of the Department of Transportation.

I am strongly opposed to transferring the Coast Guard to the Department of Homeland Security. Moving the Coast Guard to the new department is not in the best interest of the Coast Guard, the Department of Homeland Security, or the American people.

Each year the Coast Guard conducts over 40,000 search and rescue cases. They inspect U.S. and foreign flag ships and protect millions of U.S. citizens who travel on cruise ships and ferries each year. Over 80 percent of the Coast Guard's operation budget is spent on missions that have nothing to do with border protection or Homeland Security.

Another reason why I oppose this bill is because of the horrible labor provisions. This bill does away with American workers' basic right to join together and stand up for their rights. This is just another example of the Bush administration's union-busting policy. Under the pretext of national security, the compromise legislation does away with all provisions of our Nation's civil service laws for employees of this new department and allows the President to strip employees of their rights to collective bargaining. In this bill employee unions could appeal even anti-worker personnel rules; yet they have no real power to overturn this.

We have heard many problems with the new Transportation Security Agency. The problems TSA is facing are a perfect example of why we need to be more deliberate in creating a homeland security agency. The Republican Party is supposed to be the party of small government, but today they are creating a huge monster.

Mr. ARMEY. Mr. Speaker, I yield 1½ minutes to the distinguished gentleman from Connecticut (Mr. SHAYS), chairman of the subcommittee of jurisdiction, who has held over 30 hearings on this subject.

Mr. SHAYS. Mr. Speaker, we have been given a great opportunity to protect our countrymen and the world.

The Bremer Commission, the Gilmore Commission, the Hart-Rudman

Commission, all warned us to wake up to the terrorist threat. Unfortunately that call came on September 11.

We need to know, as these commissions urged, what is the threat, what is our strategy? And how are we going to reorganize to deal with implement this strategy?

The threat is real. We are at war with terrorists to shut them down before they use weapons of mass destruction against us. This threat requires a new strategy. It requires detection and prevention. It requires us to be proactive and in some cases preemptive.

This new strategy requires us to reorganize, to take various government departments and bring them together in a focused, unified approach under the four pillars outlined by the President. The first has a border and transportation focus. The second is emergency preparedness and response; one place for first responders to come to in our government and one place for resources to go out to them.

The third pillar provide chemical, biological, and nuclear countermeasures. And the final pillar is information analysis, the plug into the intelligence community.

We need to reorganize our government to be able to implement our new strategy and confront the new terrorist threat facing this Nation and the world. We need to wake up and do it now.

Mr. WAXMAN. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. OBERSTAR).

(Mr. OBERSTAR asked and was given permission to revise and extend his remarks.)

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, the homeland security bill has a number of problems with it that invite my opposition. First, it has aviation provisions that will diminish security and safety. It will give inequitable benefits to airlines and private security companies. It extends the current deadline for screening all checked baggage for explosives, with the most modern explosive detection systems. Rather than encouraging delay, we ought to be pushing the Transportation Security Administration to meet existing deadlines. We should force TSA to use equipment that is now sitting in warehouses and give them the funding they need to acquire that equipment and meet the deadline rather than extend the deadline.

The bill requires TSA to allow unlimited numbers of pilots to carry guns. The Bush administration, their Secretary of Transportation, the Transportation Security Administration agree with me that there are many unanswered questions about widespread arming of pilots, whether that would create more safety hazards than security benefits. There should be no more than a trial program until these issues are resolved with a very small number of pilots.

The bill gives much needed relief to the airline from insurance costs. Yes, I am for that. But it provides no help, no assistance to airline workers who lost their jobs, lost their health insurance, deserve better from this Congress, were promised better by this Congress from this very well. The bill limits the liability of private security companies, including foreign-owned companies, for the tragedy of September 11. That is an abomination. That should not be permitted in this legislation.

The bill continues to have the Commandant of the Coast Guard report directly to the Secretary of Homeland Security. It allows all of the Coast Guard's homeland security missions, however, to be transferred from the Coast Guard, an agency that has defended our shores for over 200 years.

Mr. Speaker, I rise in opposition to H.R. 5710, the Homeland Security Act of 2002.

The aviation provisions in the bill will diminish security and safety, and give inequitable benefits to airlines and private security companies. In particular, H.R. 5710 would extend the deadlines for installing explosive detection systems (EDS) to screen checked baggage at airports; provides the airlines with \$1 billion in relief from insurance costs, while providing no assistance to those airline workers who have lost their jobs and their health insurance; limits the liability of private security companies, including foreign owned companies, for their roles in the tragedy of September 11th; and requires the Transportation Security Administration (TSA) to allow unlimited numbers of pilots to carry guns.

Screening of checked baggage is a major building block in the comprehensive security program we need—a program with redundancies similar to the redundant safety systems, which have resulted in our airlines' outstanding safety record.

Extension of the December 31 deadline will do great harm. It will take all the pressure off TSA and the airports, and we will fail to install many explosive detection machines that could have been in place by December 31. This will increase the risk that we will fail to detect an explosive device in baggage checked by a suicide bomber.

Rather than encouraging additional delay, we should be pushing TSA to make every effort to meet the existing deadlines. We should force TSA to use equipment now sitting in warehouses, and give them the funding they need to meet the deadline. Existing law allows TSA to deal with cases where a brief delay is needed. The Aviation Security Act requires that all baggage that cannot be inspected by EDS must be either matched with a passenger on the aircraft, or inspected by another means, such as a manual search, or canine detection in combination with other means.

Before we extend any deadline for EDS deployment, we should ensure that such extension requires the TSA to improve the interim program by mandating positive bag match for connecting passengers, and by requiring that more bags be subject to direct inspection.

The American traveling public wants to feel secure when they fly, and part of that security is knowing that their bags have been thoroughly screened for explosives when they board an aircraft.

As to extending the war risk provisions for another year, I support legislation to give the

industry relief from the extraordinary problems created by September 11th and those that will arise from a war with Iraq. The Aviation Subcommittee has reported out legislation to deal with many of these problems; increased costs for insurance against terrorism, the loss of freight and postal business because of security restrictions, inadequate compensation to the airlines for some extraordinary security costs, and the implementation of passenger screening programs that unnecessarily inconvenience passengers who do not threaten security.

But there is a dark cloud hanging over our efforts to help the industry. While H.R. 5710 gives the airline industry financial relief from problems created by terrorism and war, the bill does not extend the same fair treatment to industry employees, who have also suffered disproportionately from terrorism and war. I and my colleagues on this side of the aisle insist that there must be balance in any relief package for the airline industry. H.R. 5710 does not remedy this problem, and therefore I am unable to support it.

This is not a new issue. When we passed a \$15 billion assistance bill soon after September 11, I, and many of my colleagues, insisted that if the airline companies were to be afforded relief, so should employees who had lost their jobs. The Republican leadership told us that there was no time to develop a consensus proposal on employee relief, but on the House Floor, Speaker HASTERT promised prompt consideration of employee relief, including financial assistance, ability to retain health insurance, and training for new careers. Regrettably, the leadership has not followed through, and the House has never considered assistance for displaced airline employees.

Aviation industry workers, including employees of airlines, Boeing and aerospace suppliers, and airports, have suffered unprecedented job loss and economic uncertainty. Some 100,000 airline employees are out of work or facing imminent layoff. Another 30,000 Boeing workers are laid-off along with 51,000 additional aerospace employees. And with bankruptcies looming large, it is easy to conclude that the staggering job losses will only grow.

If the airline industry is entitled to special relief because it has suffered disproportionately from terrorism and war, its displaced employees are also deserving of relief.

Moreover, H.R. 5710 includes a special interest provision to immunize airport screening companies whose negligence may have contributed to the September 11 terrorist hijackings.

In the Aviation Security Act, we expressly decided that private screening companies should not be relieved of liability for any of their security deficiencies that played a part in the September 11th tragedies. However, H.R. 5710 would extend this protection to firms such as Globe Aviation Services and Huntleigh USA Corp., the security companies responsible for providing staff at Logan Airport on September 11th and that continue to contract with TSA today.

This provision is nothing more than a special interest provision that protects negligent airport screening companies at the expense of the victims of the September 11th tragedy.

Further, the bill requires TSA to allow unlimited numbers of pilots to carry guns. The Bush Administration agrees with me that there are

many unanswered questions as to whether widespread arming of pilots would create more safety hazards than security benefits. Until these issues are resolved, there should be no more than a trial program with a small number of pilots.

I am also opposed to the bill because of provisions which threaten the ability of the Coast Guard and FEMA to carry out all of their important responsibilities, some of which involve security, and some of which do not. For example, in addition to security, the Coast Guard has responsibilities for maritime safety, environmental protection, and drug interdictions and FEMA has responsibilities for aiding recovery from natural disasters, such as floods and hurricanes.

The bill now before us divides these agencies and threatens their ability to continue to fulfill all of their responsibilities.

Although the bill continues to have the Commandant of the Coast Guard report directly to the Secretary of Homeland Security, it allows any or all of the Coast Guard's Homeland Security missions to be transferred from the Coast Guard—an agency that has defended our Nation's shorelines for more than 200 years. Under the bill, only non-homeland security missions of the Coast Guard may not be transferred from the Coast Guard.

We have been told that the intent was to keep the Coast Guard intact. How can you do that if you allow their homeland security missions to be transferred out of the agency?

Similarly, the bill splits the Federal Emergency Management Agency (FEMA) in two by transferring and consolidating FEMA's Office of National Preparedness into a new Office of Domestic Preparedness, which is under the Directorate of Border and Transportation Security, and transferring the remaining portion of FEMA to the Directorate of Emergency Preparedness and Response. By splitting FEMA in two, we threaten the effectiveness of one of our Nation's most effective and most respected agencies.

Moreover, this is essentially the same scheme that this Body rejected in July when, during consideration of the Homeland Security bill, the House unanimously adopted an amendment to ensure that FEMA would be kept intact within the new Department of Homeland Security.

In view of these and other deficiencies in the bill now before us, I am convinced that the bill will do more harm than good. I urge defeat of the bill.

AVIATION

H.R. 5710, the Homeland Security bill, includes aviation provisions that will diminish security and safety, and give inequitable benefits to airlines and private security companies.

The bill extends the current deadline for screening all checked baggage with explosive detection equipment. Rather than encouraging additional delay, we should be pushing the Transportation Security Administration (TSA) to make every effort to meet the existing deadlines. We should force TSA to use equipment now sitting in warehouses, and give them the funding they need to meet the deadline. Existing law allows TSA to deal with cases where a brief delay is needed.

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safety hazards than security benefits. Until these issues are resolved, there should be no more than a trial program with a small number of pilots.

The bill gives the airlines \$1 billion relief from insurance costs, while providing no assistance to those airline workers who have lost their jobs and their health insurance.

The bill limits the liability of private security companies, including foreign owned companies, for the tragedy of 9/11.

COAST GUARD

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FEMA

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In addressing the issue of our Nation's homeland security, we must get it right and this bill does not begin to achieve that objective.

I urge my colleagues to defeat this bill.

Mr. ARMEY. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. WELDON), my wife's favorite Congressman.

Mr. WELDON of Florida. Mr. Speaker, I thank the majority leader, and I am truly honored to be described in that fashion. Let me commend the gentleman on the outstanding work he has done in shepherding what I think was one of the most problematic pieces of legislation to come through this body.

Mr. Speaker, I am the chairman of the Committee on Civil Service, Census and Agency Organization, and I want to just specifically comment on the civil service issue which I think was the item that was really holding this up more than anything else. And with 1 minute I cannot get into this in detail, but I feel very, very strongly that this is a good compromise product. And indeed as the gentleman from Ohio (Mr. PORTMAN), my friend, said earlier today, and I am in 100 percent agreement with him, this will be probably the best civil service system within the

Federal Government and can actually serve as a model for how we can reform the entire system so that it does what the American people want, which is really promote and reward excellence within our civil service work force, and that is what the people want who work for our Federal Government and that is what is necessary to protect the American people.

This is called the Department of Homeland Security. Let us remember their mission: Protecting the public.

Mr. ARMEY. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Ohio (Mr. PORTMAN), a member of the Select Committee on Homeland Security.

Mr. PORTMAN. Mr. Speaker, I thank the chairman for yielding me this time. His passion and his persistence are the reason that we are here tonight to do this important work, and I appreciate the role he played in moving this legislation through the system as chair of the Select Committee on Homeland Security.

Mr. Speaker, there is an old saying that goes "Times change and we change with them too." Times have changed and it is imperative to the security of our country, security of our families that our government change as well.

On September 11, 2001, the terrorists who struck our homeland killed more civilians than all our foreign enemies combined. We all woke up to the fact that the threats we face now are very different from the ones we faced in the past. During the Cold War, we adapted our government structure to better utilize the resources we had to fight then a superpower. Today we face a more unpredictable and a more agile enemy and a very deadly enemy, and today we must reorganize our government again so we can stop that enemy before it strikes again, and we are not ready. There are over 100 departments and agencies with some involvement in homeland security, and when every one is in charge, no one is in charge. There is no accountability in the current system.

Last summer President Bush presented to the Congress a very ambitious and visionary plan to merge and consolidate responsibilities in a new Department of Homeland Security, similar to what Senator LIEBERMAN had proposed and what various commissions had proposed. He laid out three strategic objectives: First, prevention of attacks; second, minimizing our vulnerabilities; and, third, minimizing the damage and maximizing recovery should an attack occur. These three pillars provided us with a clear framework to align our resources, people and capital, and to align responsibility and accountability. This single unified structure will make us more efficient, will make us more effective in the fight against terrorism. It will not make us immune, but it will make us safer.

I strongly believe in what we are doing tonight, not because we are cre-

ating a new department but because we are doing it the right way. We are giving this President and future Presidents the flexibility they will need to make it work. That is budget flexibility; it is organizational flexibility; and, yes, it is personnel flexibility to be sure the right people are in the right place at the right time to protect us. The 21st century threats that we now meet head on cannot be handled by early 20th century civil service rules and bureaucracy. So, yes, the President and the new Secretary of Homeland Security will have the flexibility to design a new human resources management system, but it is one that will preserve fundamental civil service and worker protections while at the same time building a team atmosphere that is absolutely crucial by rewarding and promoting excellence and ensuring that we can do all we can to recruit the best people to this task.

We have before us, Mr. Speaker, a bill that will both protect the homeland and protect workers' rights. It is the right balance.

Mr. Speaker, I urge my colleagues on both sides of the aisle to strongly support this legislation before us tonight. It represents an agreement between the House and the Senate and the White House, and by joining together we will send a strong message to the American people and to the other body that we are committed to doing all we can to protect our families and our country.

Mr. ARMEY. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Oklahoma (Mr. WATTS), the chairman of our conference and a member of the Select Committee on Homeland Security.

Mr. WATTS of Oklahoma. Mr. Speaker, I thank the gentleman from Texas (Mr. ARMEY) for yielding me this time. I appreciate very much his leadership that he has shown on this issue and his persistence.

Mr. Speaker, I rise to support this historic initiative to bolster the safety of Americans with an effective and focused Homeland Security Department. We are making the bureaucracy work for the American people rather than having the American people work for the bureaucracy.

The House has come back to work in a post-election session so we can pass an initiative that has languished for far too long. One year, 2 months and 2 days have passed since attacks on our Nation provoked the war on terror. Our military has responded with might abroad, but our vulnerability remains unnecessarily high here at home. From seaports to the air, roads to the rail, terrorists have too many opportunities to exploit openings in a hole-ridden fence that is supposed to be our homeland defense.

I have been working on this issue for many years, and I was privileged to be a member of the Select Committee on Homeland Security. I commend my colleagues on that panel for their commitment, and I salute the President for

his steadfast perseverance even as many thought we could not get the job done this year.

The domestic terrorism waged on my home State in 1995 opened the eyes of Americans to the evil that can be perpetrated by as few as two people. The bombing of the Oklahoma Federal building forever changed the lives of citizens who thought they were safe. The hijacking of four airplanes on September 11, 2001, multiplied that catastrophe to unspeakable proportions. Today, we are about to take a bold step to respond to such evil by learning from the actions of the past to prepare for unforeseen acts of terror in the future.

The Department of Homeland Security will organize a government that is fractured, divided, and underprepared to handle the all-important task of defending our great Nation from terrorist attack.

My colleagues on the other side of the aisle have tried to muddy the waters by invoking special interests over national security. But that is not what this bill is about. The President needs the freedom and flexibility to protect the homeland. He, just like every Commander in Chief since Jimmy Carter, must continue to have the ability to use presidential prerogative when it comes to the safety of the country.

An amendment I offered months ago in committee remains in today's legislation and will help foster a better relationship between the private sector and the new department by establishing a private sector liaison in the Secretary's office.

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This liaison will also work with government researchers and academia to procure the best tools mankind has to offer.

Again, we are talking about the security of our Nation. A promise made is a promise kept. By creating a Department of Homeland Defense, we will be better prepared for acts of terror.

This is an important victory for the safety of Americans from coast to coast, border to border. I urge my colleagues to pass this bill and help secure the future of this great land of ours we call home and the rest of the world calls America.

Mr. WAXMAN. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, let me thank the gentleman from California (Mr. WAXMAN), of course, for his leadership, and as well the bipartisan committee that was crafted in the House reflecting the work of many of our committees.

Might I say for a moment that I do want to acknowledge the work of the majority leader, a colleague of mine from Texas. Not knowing what legislative agenda we will have tomorrow, I

would say to the gentleman from Texas (Mr. ARMEY), this might be a great swan song; and we thank the gentleman very much for the work that he has done.

I do want to raise some issues, and I appreciate the work of the Committee on Science and acknowledge that this may be the most important legislation created since maybe the creation of the now Defense Department, then the War Department, because it does deal with defense, security, domestic security, and ensuring that America is safe.

But we also have to have an agency that works, a Department that works. The Committee on Science appreciates the creation of the Under Secretary for Science and Technology and a Homeland Security Institute, because part of our security is in fact based upon the knowledge that we have.

I am somewhat disappointed that the idea I had involving involvement and consultation with NASA because of its extensive satellite system was not included, but I would look forward to this legislation being amended forthwith so we can work with this and improve it. I am also concerned about the function of the Inspector General and the issue of purging waste, fraud and abuse; and I am concerned as to the structure of that particular position.

Moving quickly to the immigration issues on the Judiciary Committee, I am gratified that the Department of Children's Affairs does still exist as we had designed it under the immigration legislation and in the Committee on the Judiciary, which separates out a procedure for children who are unaccompanied who are coming in as illegal immigrants. I believe that children need to be handled differently, and the gentlewoman from California (Ms. LOFGREN) and myself were very keen on this issue, and we thank those for their support.

Let me also say I am very much appreciative of the fact that we do have a bureau that deals with immigration services. I think that is good; and I think we should make sure this is a country of immigration, and immigration does not equate to terrorism.

I hope this bill has some ability to bring people together, but I also hope we will look at it in the future and make it a better bill.

Mr. ARMEY. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Florida (Mr. MICA), the chairman of the Subcommittee on Aviation.

Mr. MICA. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, not only is this an excellent bill that gives the President the flexibility he needs to provide homeland and domestic security, but this bill has some excellent provisions relating to aviation security and the future security of the aviation industry and our Nation. Let me address a couple of points that have been made here today.

First of all, the extension on the checked baggage screening require-

ment. The week of November 12, 2001, when we passed the bill before it was signed into law November 19, we knew that we could not manufacture the equipment necessary, that it would be ludicrous to spend billions of dollars to try to meet arbitrary deadlines with equipment that does not work. But what we provided for here is equipment that will work, that can be installed on a realistic basis; and we have assisted our airlines in not compromising security by putting in place in fact the very best measures.

We also put a provision in here to arm our pilots. They asked for that protection. That is a good provision and it is long overdue, because we know they are the last line of defense; and they have requested this, seeing the gaps in the security system in transition. So I am pleased with that provision.

Finally, the survival of the aviation industry. The war risk provisions and liability provisions are excellent. We held hearings on this issue, and one of the greatest areas of loss for our aviation industry is not being able to either obtain or obtain at reasonable cost liability and war risk insurance.

This does not compromise security, it does not compromise jobs, and it does not compromise the future economy and progress of this Nation.

So, Mr. Speaker, this is not a perfect bill. But it is a good bill, and it has some excellent provisions. I urge my colleagues to support this measure.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from California (Mr. WAXMAN) has 3 minutes remaining, the gentleman from Texas (Mr. ARMEY) has 5 minutes remaining, and the gentleman from Texas has the right to close.

Mr. WAXMAN. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I listened to the arguments on the other side from people for whom I have an enormous amount of respect. The gentleman from Texas (Mr. THORNBERRY) has been working on this issue for some time, and the gentlewoman from my own State of California (Mrs. TAUSCHER) has also been very involved in creating such a Department. I, too, have supported the idea of a Department for Homeland Security. But I think this bill creates so much bureaucracy and inefficiency that I fear that it will not accomplish its purpose.

Primarily, what we should do is coordinate the activities of the FBI and the CIA. We know the history of the FBI and its problems. Problems such as Hansen, a double agent, and how the FBI pursued Wen Ho Lee. We know about the ongoing problems of coordinating between the FBI and the CIA. This bill does not do anything to enhance the cooperation between these two agencies.

Instead of giving the White House the authority to review the budgets and to coordinate the activities of the agencies of government involved in defend-

ing our homeland, this bill takes all those agencies of government and puts them into a new Department. Now there has to be a new bureaucracy set up in this new Department with all these new employees who used to do other things in other agencies to try to make this whole thing work.

The President was not originally for this Department. The idea came from Senator LIEBERMAN, particularly, and others. Many of us argued there should be a Homeland Security Department with the power to streamline, not bureaucratize. One that would be limited. One that controlled the operations of our border agencies, immigration, customs. We ought to have something along those lines. One with the White House authority written into law.

The President created an Office of Homeland Security and appointed Governor Ridge, but that office does not have the authority to make its decisions stick with other parts of the Federal Government bureaucracy. I, with all due respect, think this is a real problem with this bill.

In addition, we have not heard anybody on the other side get up and defend the smallpox special interest provision, the protection for the manufacturers of the vaccine. No one has even raised that issue on the other side. It was not in any bill that passed the House nor was before the Senate. Suddenly it appears here, condemning people who are injured with the inability to sue if there was negligence on the part of a manufacturer of a vaccine. This is the ordinary way in which they can pursue those claims at the present time.

Why is this special interest provision suddenly in this bill? Why is that here, without any opportunity to have it reviewed or analyzed? Why do we have provisions in this bill that protect the manufacturers who engage in negligent behavior when creating devices to be used for homeland security?

I am troubled by the way this whole bill has been considered, and I would urge my colleagues to vote against the legislation.

Mr. ARMEY. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I have listened carefully to the arguments in opposition to this bill. One reason being, Mr. Speaker, when we began this debate I was fascinating myself with the question of how could anybody oppose this bill. These are the four complaints I have heard:

One, there seems to be a concern that the bill is being rushed to the floor. The gentleman from California just pointed out, the President of the United States for a long time did not adopt this idea. It had been proposed by many people, and many Democrats. Only after seeing the thorough need and the thorough possibilities for success did the President in June propose Homeland Defense.

This House of Representatives worked on it, and with the Select Committee working in consultation with

all the committees of jurisdiction in this House, with testimony taken from the chairman and ranking member of each of these committees, produced the bill that was brought to this floor and passed on July 23 with 295 votes. We have waited on the other body; and only after an exhaustive wait did the President propose, insist, last week that we move forward, and now it appears that both bodies will.

Pursuant to the President's insistence of last week, we have worked literally night and day in consultation with all the committees of jurisdiction in both bodies and with the White House to craft this legislation which today we bring to the floor.

In that regard, Mr. Speaker, let me say that we owe an expression of appreciation to so many staff on both sides of the aisle, on both sides of the building and in the White House and the agencies of the government for all of their hard work, night and day, literally, for the last 4 or 5 days.

But may I take just a moment for a special thank you. Those men and women who labor on behalf of all of us in the Office of Legislative Counsel are too seldom recognized; and with the indulgence of this body, let me single them out for special appreciation for the efforts they have made.

No, this was not rushed to the floor. We worked hard on it; we worked together on it. Virtually every Member of this body and the other body was consulted in some way on some part of this bill.

We are told that America does not care about homeland security. Were you not listening? I think they made the point last week. They do care. It is important.

We were told that Members did not get to participate. I know of no piece of legislation brought before this body in my 18 years I have been here where there has been more comprehensive, committee-by-committee, subcommittee-by-subcommittee, Member-by-Member participation in the process of preparing the bill.

We were told that the bill was being offered for political purposes in anticipation of the next election. Mr. Speaker, let me say as my final point, I know of no time in my 18 years in this body where the principal author of a bill brought to this floor had less interest in the next election than this time here.

Mr. BLUMENAUER. Mr. Speaker, from the beginning of the homeland security debate, after studying evidence and listening to Oregonians, my priorities have been clear. Strengthening the capacity of our government agencies to defend our nation from terrorist attacks is necessary and vital to our society. Our nation will benefit from better communication among federal agencies and from improved safety of air travel, our borders, our ports, and our water supplies. However, we must develop a focused strategy to protect our nation rather than taking cosmetic actions.

We need to address the intelligence failures that led up to the event of September 11. We

need to work with local governments to coordinate responses to future attacks. The proposed Department does not address either. A massive restructuring of the federal government will not necessarily improve the security of our nation.

As has been documented time and again in jarring detail by the news media, the FBI and CIA were not properly coordinated before September 11. This enormous reorganization, rather than dealing with fundamental problems between these two agencies, adds a third governmental department to the uncoordinated mix.

My own experience is that government reorganizations are difficult and complex. There are many demands on employees and stripping away workers' protecting will only create friction and uncertainty. It would be more simple and fair to make adjustments for those employees that work primarily with intelligence or terrorism investigations than to strip away the collective bargaining rights of all employees included in this new government.

Finally, the timing is problematic. The leadership rushed the first bill through the House in an attempt to pass it into law before the anniversary of September 11. Now, just days after the election, the House and Senate Republicans produce a new bill, exempting labor protections for workers, in back room negotiations. A significant reorganization would be better served by an open, inclusive process. The Homeland Security Department, as proposed in this bill, will detract from our ability to truly protect our nation.

Mr. CONYERS. Mr. Speaker, the tone of bipartisanship the Republicans used to win control of Congress has ended. We saw a draft of this bill, which is the largest reorganization of the Federal government in decades, only late yesterday afternoon. We were not given any opportunity to make improvements, and we now find ourselves on the House floor under a rule that prohibits amendments. I have more concerns with this legislation that I can count, but I will focus on three: the anti-labor, anti-immigration, and pro-corporate irresponsibility provisions.

First, this legislation guts the civil services and collective bargaining protections that currently exist for Federal employees. It makes it difficult for employees of the Homeland Security Department to collectively bargain for fair compensation. The argument from the other side seems to be that employees who have rights might not be able to do their jobs effectively. But does anyone remember who the heroes of September 11 were? It was the firefighters and police officers of New York and Virginia, all of whom were members in good standing of organized labor. Can anyone suggest that their civil service and union protections did anything to weaken their resolve? Of course not.

Second, this legislation moves the entire Immigration and Naturalization Service, its services and enforcement functions, into the new Department. To the contrary, in the INS reorganization bill that I supported and we passed earlier this Congress, we kept the services portion of the INS in the Justice Department and moved only the enforcement functions to the Homeland Security Department. By moving both functions of the INS to the Homeland Security Department, this legislation by implication treats all immigrants as terrorists.

Finally, this bill provides civil liability protections for government contractors that provided

"anti-terrorism products." The new Secretary could immunize from any tort lawsuit the conduct of any company that sold defective anti-terrorism products to the government or the public. This means that a family that purchases a product to protect itself from terrorism, and finds the product to be useless, might have no cause of action against the contractor. The immunity provision also could shift the burden of identifying the wrongdoers and apportioning blame from the defendant to the victim.

Ms. SCHAKOWSKY. Mr. Speaker, I rise in opposition to H.R. 5710, the Homeland Security Act of 2002. This is the second homeland security bill the House has considered this session and it is still a far cry from a measure that will live up to the promise of its name. I am not convinced this bill will in fact make Americans safer than they are today. Moreover, the bill contains misguided and dangerous provisions that may cause more harm than good.

We all agree we must do more to protect our country from threats posed by those who wish us harm and those who wish to alter the way we live our lives. I am disappointed that the measure before us does not represent a more positive step in that direction. I am also disappointed that provisions I opposed when the House first considered this legislation are still in the bill.

There are a number of serious problems with this legislation that force me to vote against it for a second time.

This bill gives broad new authority to the President to reorganize the massive federal workforce created by this legislation. The bill gives the President an excuse to disregard and to take away hard-won civil service protections and collective bargaining rights for employees of the new Department. At a time when agencies throughout the federal government—in Washington, D.C. and in cities across the country—are having difficulty attracting and retaining qualified employees, this bill could turn employees of the new department into second class workers. What kind of a signal will we send to those federal workers if we ask them to move and tell them that they will lose many of the guaranteed rights that they now enjoy? How many of those workers will decide to leave federal service and move to the private sector? For those workers who do stay, how can we expect them to demonstrate high morale and commitment when they know that they lack the same rights as their federal colleagues in other agencies?

There is no national security rationale for stripping workers of their basic rights. I am particularly concerned about the fate of administrative workers in agencies that are to be transferred to the new department. Many of them are not directly involved with homeland security issues but will nevertheless be denied their rights. Congress enacted civil service protections and collective bargaining rights so that we could attract the very best to government service. We should not give this or any other Administration the right to take them away. As we stand together to fight terrorism, we should also stand together for the rights and well being of federal workers.

The House also missed an opportunity today to provide real protections for whistleblowers. I offered an amendment that would guarantee American patriots who come forward to expose improprieties and threats to

our security a guarantee that, if they are retaliated against for their actions, they will have a right to legal recourse.

This bill creates an exclusion from the Freedom of Information Act to all information dealing with infrastructure vulnerabilities that is voluntarily submitted to the new department. This is an unnecessary provision because, under current law, the government already has the authority to exempt from FOIA information that meets one of several standards, including that which is related to national security and trade secrets. This bill also exempts committees created by the Secretary of Homeland Security from the Federal Advisory Committee Act. This would allow the Secretary to create secret forums where lobbyists for all sorts of special interests could push their agendas with the Administration without concern that the public would find out and regardless of whether their discussions are about security or business goals.

The legislation before us today negates the Congressionally-mandated requirement that all airports have the ability to screen checked baggage for explosives. One of our most frightful and realistic vulnerabilities is the status of our air travel system in this country. It is a sad message to send to our constituents and the flying public that we are not willing to do what it takes to ensure the skies are truly safe. Many on the Republican side have argued that the task of providing equipment to secure our planes and prevent terrorist devices from making their way on board is too costly. We cannot afford to do otherwise.

I am very disappointed to see that the bill before us today takes a step away from providing true security for people by protecting them from discrimination and mistreatment. Unlike H.R. 5005, which establishes an Office for Civil Rights and Civil Liberties with a Director, this new bill simply appoints an officer to review and assess information alleging abuses of civil rights, civil liberties, and racial and ethnic profiling. I offered an amendment to establish an Office for Civil Rights and Civil Liberties, and I feel that anything less will fail to adequately meet the goal of ensuring that no one is mistreated by this new department.

I would also like to draw my colleagues' attention to the issue of how our immigration system is organized within this bill. I come from an immigrant-rich district and I have made it a top priority to ensure that newcomers to this country are received in a fair and considerate manner. I am pleased that H.R. 5710 retains the provisions establishing an Ombudsman's office to assist individuals and employers in resolving problems with citizenship and immigration services. The bill also takes steps to hold the Bureau of Citizenship and Immigration Services accountable by requiring it to report how it is handling its immigration caseload and how it is working to eliminate its infamous backlogs. These are very important steps, and I urge my colleagues to continue to work to improve upon these new provisions, as well as the organization of immigration functions, so that the quality and efficiency of the services offered to immigrants are not compromised, and are in fact improved.

Unfortunately, this bill fails to address even the most obvious and immediate homeland security concerns. It does not address the serious problem of information sharing and communication among the intelligence community.

The CIA and FBI are left out of this new department and there is no provision in this bill clearly stating the mechanism for past communications failures to be fixed. Instead, what the President and the Republicans in the House put forth is a massive reorganization of the federal government, nothing more than a reshuffling of the deck, with a few added tools for the Administration. Simply shifting people and agencies will not make America safer and that is all we will accomplish if we pass this bill. I urge all members to reject this flawed legislation and to focus on efforts that will actually enhance our security and maintain our American way of life.

Mr. HASTINGS of Florida. Mr. Speaker, I rise in strong opposition to the 11th-hour version of the Homeland Security Act.

When the House originally debated this legislation last August, more than one hundred amendments were submitted to the Rules Committee. Barely 1/4 of those amendments were considered in order, despite recommendations from eleven congressional committees. Now we've been presented with a new, 484 page version of the bill, and are not being given any time to assess its merits and flaws.

During our first debate, I introduced an amendment that protected the Equal Employment Opportunity and whistleblower rights of civil servants. My amendment was unanimously approved, a clear indication that federal workers' rights are an important concern for this Congress. In fact, this issue was so important that it caused the first bill to get bogged down in the Senate for more than three months.

Although I note that the protections in my Amendment have been included, the new version gives the Secretary the authority to establish a "contemporary" human resources management system, but does not define the word "contemporary" in this context. This authority will affect the 170,000 federal workers who will transfer to the new department and deserves careful scrutiny and debate.

Another disturbing item in this bill is the unprecedented authority of the new Secretary, who will be able to transfer funding between departments in the new agency without any congressional authority or oversight. In other words, Congress can approve appropriations for one program, and the Secretary can arbitrarily decide to spend those tax dollars on something else, without congressional approval. This initiative sets a rather alarming precedent for the entire executive branch of government; one that deserves our full and careful attention.

Either we're going to create a new department, or we're going to change the civil service laws and revamp the Executive branch of government. I don't believe we should attempt to do both in one piece of legislation.

The American people are counting on us to create a new department that will reduce our vulnerability and prevent future terrorist attacks. They are also counting on us to do this in a fiscally responsible manner. The earliest the new department would be funded would be January 11, 2003. If we have a year, then let's take a year and do this right. Let's make sure that the new department will deliver what it promises, and let's make sure we know what it will cost.

The Homeland Security Act, as written, is not ready for prime time. We have been given

no time to review the bill, and no opportunity to debate the bill and no option to amend the bill, but we are being asked to approve the bill.

Although there are differences between the first and second versions, different, in this case, does not mean better. As I said in my floor statement three months ago, if we don't take the time to do this right, we're going to have to make the time to do it over, and here we go again . . .

Let's give this legislation the time and attention it deserves and create a Department of Homeland Security that will do what we need it to do. We must have Homeland Security legislation that actually improves our homeland security, not just creates a new federal agency with new civil service rules and unmonitored spending authority for its Secretary.

I urge my colleagues to vote "no" on this bill.

Mr. HOYER. Mr. Speaker, much of the controversy swirling around this Homeland Security Act relates to our treatment of Federal employees, many of whom stand on the front lines in our war against terrorism.

I share the deep concern of those who believe that the reorganization proposed under this bill will undermine the rights given by law to thousands of our Federal employees.

And let me note: Earlier this year, I specifically asked OPM to cite even one example in our nation's history where union membership had threatened our national security. OPM could offer none.

However, the controversy surrounding the rights of Federal employees is not the basis of my opposition to this Homeland Security Act. And I am deeply concerned that the attention devoted to it obscures the larger point.

As the Baltimore Sun observed on September 23rd:

"Months of debate have made clear that this bureaucratic boondoggle offers no promise of making the homeland more secure. Worse, it takes the focus off the need for tighter oversight of the nation's security systems."

I am greatly concerned, Mr. Speaker, that this legislation could actually harm our ability and readiness to protect our homeland.

Under this legislation, 22 existing agencies and programs and 170,000 people would be integrated into this new department.

Yet, many of the agencies that are critical to our homeland security would not even be part of this reorganization.

Furthermore, this act fails to recognize that the FBI, DEA and INS are currently grouped within the Department of Justice, but do not effectively communicate with one another.

As special agent Colleen Rowley's testimony indicated earlier this year, the FBI even has trouble communicating within its own agency.

We must not delude ourselves into believing that rearranging deck chairs will protect our ship of state.

What's needed is greater sharing of information within and among the agencies that protect our homeland, so that we may coordinate and synthesize the enormous amounts of information that our government collects.

And we need a lean homeland security office that has the mission and authority to develop and implement a comprehensive strategy for homeland security.

In analyzing this issue, the General Accounting Office warned in July:

It is clear that fixing the wrong problems, or even worse, fixing the right problems poorly, could cause more harm than good in our efforts to defend our country against terrorism."

This act fails to fix our most obvious problem—effective information sharing among agencies.

I urge my colleagues to vote against it.

Mr. LANGEVIN. Mr. Speaker, I rise today in support of the creation of a Department of Homeland Security and am pleased that we are able to consider this important issue before the end of the 107th Congress.

I am pleased that this legislation largely reflects the recommendations of the U.S. Commission on National Security for the 21st Century, chaired by Senators Gary Hart and Warren Rudman, which assessed the nation's security vulnerabilities and recommended the creation of a Cabinet-level Department of Homeland Security. By consolidating the security functions of 22 separate federal agencies into one department, we can ensure that our nation puts forth a united front against terrorism on our soil. The new department represents a major step forward in our efforts to protect the American people. Furthermore, it will serve as an important resource to police, fire, and emergency medical service workers, who represent the first line of defense against terrorism.

In July, the House passed a similar measure, H.R. 5005, which I supported. However, at that time, I urged my colleagues to improve certain provisions in the bill so that we might safeguard civil service protections for department employees and preserve existing good government laws. I am disappointed that today's bill did not go further in those respects. The proposed Department of Homeland Security could employ as many as 170,000 people, and we should promote a work environment that enhances their ability to protect the American people.

I will support this legislation today because it is the responsibility of Congress to keep America safe from future acts of terror. Furthermore, I will closely monitor its implementation to ensure that we protect the security of our nation as effectively as possible.

Mr. PASTOR. Mr. Speaker, although I am a strong supporter of fully utilizing all possible resources to combat this new and tragic war on terrorism, I have serious reservations over the proposal being presented to us today.

Realistically, this bill would do nothing more than rearrange the deck chairs on the *Titanic*. What we really need is to address basic agency policies and promote efficient exchange of information without diminishing critical agency missions.

Keeping major intelligence gathering sources separated from this agency and moving desks across the hall, begs the question as to what we will be accomplishing by this move? Will it result in a smoother information flow, not just from one Washington office to another, but to the actual communities which must have as much lead time as possible to prepare for attack? Are we actually expanding agency areas of responsibility or will it be business as usual? What are we really doing to ensure dam, water supply, energy sources, and transportation safety? What are we really doing to provide an enhanced capability to address hazardous material, chemical, or biological threats? What are we really doing to improve our risk, threat, and vulnerability assess-

ments? What are we really doing to improve the delivery of emergency food, shelter, and medical care in the event of another tragedy?

Troublesome are inconsistencies found in the bill. For example, is the Administration's repeated statements that this bill would consolidate training programs, yet, under Section 403 we see the Department of Justice's Office of Domestic Programs which does COPS training being placed under "Border and Transportation Security," while other training programs are being placed under "Emergency Preparedness and Response" under Section 503.

Another example is found under Section 201(d)7, where the Under Secretary for Information Analysis and Infrastructure Protection is charged with exercising primary responsibility for public advisories related to threats to homeland security, while in Section 214(g) it states that the federal government may provide advisories, alerts, warnings to relevant companies, targeted sectors, other government entities, or the general public regarding potential threats. Where is the coordination and are we creating two separate sets of warnings?

Questions have been raised on the coordination mechanism between Homeland Security officials and other Departments. For example, if Homeland Security officials are designated to establish research efforts and attempt to direct Department of Defense agencies on those efforts, who actually has final authority?

In particular, I am troubled that this legislation offers so little to assist first responders, the men and women on the street who willingly put themselves in harm's way for the greater good. We must ensure that these dedicated citizens are provided with all possible resources to both protect them and support their mission.

I am hopeful that this legislation is defeated and the Congress continues to consult with experts in a more circumspect manner and that crafts a measured more approach that maximizes our ability to anticipate, prevent, and react to acts to terrorism.

Mr. BENTSEN. Mr. Speaker, today I rise in support of H.R. 5710, which establishes a Department of Homeland Security as an executive department of the United States, headed by a Secretary of Homeland Security. The primary mission of the Department of Homeland Security will be to anticipate and prevent future terrorist attacks, reduce America's vulnerability to terrorism, and improve upon our existing ability to respond and recover from any possible terrorist attacks. The tragedy of the September 11th terrorist attacks underscored a changing environment for the United States and exposed glaring weaknesses and vulnerabilities in our domestic security infrastructure. As a Congress, we must address our most fundamental priority and responsibility, ensuring the security and liberty of our nation. Today's legislation would do just that, consolidating 22 different agencies with varying responsibilities for border security, bioterrorism defenses, and disaster mismanagement into one streamlined organization, the Department of Homeland Security. Within the Department of Homeland Security will be four primary divisions: the Border and Transportation Security Directorate, the Emergency Preparedness and Response Division, the Science and Technology Directorate, and the Information

Analysis and Infrastructure Protection Directorate.

More importantly, H.R. 5710 restructures key agencies by shifting control of their directives to the new Department of Homeland Security. A key example of this is the abolishment of the Immigration and Naturalization Service (INS). Instead, the bill creates two new agency components, one responsible for immigration enforcement and visa matters, and the other handling citizenship matters. This provision is similar to legislation I cosponsored in the previous 106th Congress, which would have split the INS into separate agencies to make it more efficient, accountable, and fair with regard to general immigration and citizenship matters. I am pleased that H.R. 5710 includes these crucial reforms, as the INS is an agency in dire need of overhaul.

Mr. Speaker, I am pleased that H.R. 5710 includes provisions similar to H.R. 4598, the Homeland Security Information Sharing Act, which will require the administration to develop procedures for the sharing of both classified and declassified information between federal agencies and the appropriate state and local authorities. Furthermore, existing barriers against the sharing of foreign intelligence are relaxed as well. As was so clearly demonstrated by the events of September 11th, the failure to share and disseminate crucial intelligence and timely threat information through the appropriate channels can have devastating consequences. While I understand the necessity of protecting intelligence-gathering methods, I believe that in order for there to be truly effective and comprehensive homeland security, state and local officials must be adequately informed of pending threats facing their communities. I believe H.R. 5710 strikes that careful balance between the protection of intelligence methods and the dissemination of necessary intelligence to state and local authorities, information crucial to them in protecting their communities.

Mr. Speaker, while I am in strong support of the core concepts behind the Department of Homeland Security, I continue to have some concerns about specific aspects of the legislation. I am concerned about provisions which would allow the new Department to establish a new personnel management system and pay systems for its employees, outside of the existing civil service system, which could possibly undermine important civil service protections. However, I am pleased that the current version of homeland security legislation, H.R. 5710, is an improvement over the House-passed H.R. 5005 in regards to civil service protection, because it allows for a period of notification, provides venues of mediation, and includes provisions for appeal procedures.

In addition, H.R. 5710 also limits legal liability for certain anti-terrorism products certified by the new Department. While the desire to promote the widespread commercial use of innovative new technology against terrorism is laudable, I believe it should not come at the expense of important legal accountability and safety standards.

However, I also find that there is much in H.R. 5710 that is very necessary for passage and enactment including authorization for Department of Health and Human Services to administer the smallpox vaccine to segments of the public, and the creation of tax-deductible charitable funds to be used to compensate

military, law enforcement, and intelligence personnel killed in the line of duty as a result of a terrorist action.

For all these reasons, Mr. Speaker, I will support H.R. 5710, and support the effort to create this timely and vital cabinet-level Department. I urge my colleagues to join me as we take the steps necessary towards protecting our country from future potential attacks and to send a message to the American people before we adjourn the 107th Congress that this Congress, their Congress is determined and resolute in protecting them and their families at all costs.

Mr. BOEHLERT. Mr. Speaker, I rise in strong support of H.R. 5710, a bill too long delayed, which will establish a Department of Homeland Security. I want to acknowledge the perseverance of the President and the Leadership, which has enabled this bill to come before us today. I also want to acknowledge the long weekends and nights of hard work that went into this bill, especially by Margaret Peterlin and the rest of the Majority Leader's staff. We appreciate the close working relationship our staff on the Science Committee has had with the Leadership staff.

Mr. Speaker, I'll be quite brief today because I outlined the Science Committee's perspective on this bill when H.R. 5005 passed in July.

Let me just say now that I am delighted that the Department of Homeland Security will have an Under Secretary for Science and Technology. As I keep saying, the war against terrorism, like Cold War, will be won as much in the laboratory as on the battlefield. With that in mind, we felt it essential that the Department have a directorate and an Under Secretary with clear responsibility for R&D across the Department. I'm pleased that just about everyone has come around to this point of view.

I believe that cybersecurity and R&D will be among the areas in which the Department will make its greatest contribution. These are areas in which the Department will not just improve coordination among existing agencies, but will have to build new capacity from the relatively limited building blocks that are being transferred into the Department. I urge passage of this bill.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise in reluctant opposition to the Homeland Security Act today. There is not one Member of Congress who does not want to stand in a united front in our war against terrorism. And like all Members of this body, I recognize the importance of strengthening homeland security. The people of the 30th Congressional District of Texas have entrusted me to do both. However, in keeping with that trust, I could not vote for legislation that creates a sprawling bureaucracy while leaving so many important security questions unanswered.

Let me be clear that I remain committed to providing all of the resources necessary to combat terrorism through a strong, efficient Department of Homeland Security. I am also extremely supportive of the provision in this legislation that extends the December 31, 2002 deadline an additional year for airports to install explosives detection equipment. In my district in Texas, DFW Airport desperately needs more time to install the equipment necessary for the baggage screening deadline. I worked with leadership to ensure DFW would

be granted this extension, and I commend negotiators of this legislation for including this desperately needed provision.

Unfortunately, the underlying legislation remains unacceptable for a number of reasons, and I must oppose the bill. I strongly oppose the provision in this legislation that will arm commercial airline pilots and strip away civil service protections for our nation's federal workers. As I have repeatedly said during this debate, arming pilots is simply not the answer to improving our airline security. If we truly want to increase safety aboard our nation's aircraft, we should concentrate our resources on putting Air Marshals on 100 percent of all flights. I must continue to stress to my colleagues that there are many unanswered questions as to whether widespread arming of pilots would create more safety hazards than security benefits.

I also remain concerned that Republicans, under the guise of homeland security, have made this legislation an assault on the civil service protections of our nation's federal workers. Among its provisions, legislation would allow DHS to arbitrarily reduce salaries of employees without giving them a legitimate appeals process comparable to employees of other federal departments. I cannot support this attempt to rob workers of their key employment protections.

I am also concerned about the disregard the formation of DHS has shown for the committee process. When the Science Committee marked up the Homeland Security legislation in July, I offered an amendment that would have aligned federally funded research at the new department with existing policies at the Departments of Defense and Energy. My amendment was based upon a sound, proven policy for dealing with classified research as articulated in 1985 by former President Ronald Reagan in National Security Decision Directive 189. My amendment was adopted by a bipartisan majority of almost 2 to 1. Yet when the Homeland Security legislation proceeded to the Select Committee, my amendment was stripped from the Science Committee's mark.

When I asked my friend and colleague from North Texas, Mr. ARMEY, why an amendment that passed in committee with overwhelming support was not included, he told me that the Science Committee did not support the amendment. I was unable to offer my amendment on the floor of the House, presumably for the same reason. As a result, once the Department of Homeland Security is signed into law, we will have federal agencies that conduct classified research in two very different ways, regardless of the fact that one of these ways has been proven to be sound policy in its almost two decades of use. This is very unfortunate, because it is contrary to the expert advice provided at the Science Committee's October 10, 2002, hearing entitled, "Conducting Research During the War on Terrorism: Balancing Openness and Security". Witnesses from academia and the Bush Administration attested to the wisdom of NSDD-189 and how it has been a guiding principle in conducting federally funded classified research.

It is my sincere hope that Congress will heed the advice of expert witnesses and two decades of proven science policy and reconsider the guidelines for federally funded classified research at the new DHS.

I realize that this legislation will pass today, and as I have mentioned, I sincerely wish I

could lend my support to it in extending the current deadline for screening all checked baggage with explosive detection equipment. But since this bill includes provisions that will diminish aviation security and protections, I regret that I must vote against this bill.

Mr. SMITH of Texas. Mr. Speaker, the President has stated about the creation of a Homeland Security Department: "[we] face an urgent need, and we must move quickly, this year, before the end of the congressional session." We fulfill that request today by passing H.R. 5710, the Homeland Security Act.

This bipartisan legislation accomplishes many goals. The Gilmore Commission stated in 2000 that the national strategy against terrorism must address intelligence, deterrence, prevention, preemption, crisis management, and consequence management. This bill does just that.

H.R. 5710 includes the provisions of H.R. 3482, the Cyber Security Enhancement Act, legislation I introduced that passed the House overwhelmingly in July. These provisions strengthen the penalties against those who commit cyber crimes. They also establish the Office of Science and Technology within the National Institute of Justice, which guarantees the ability of NIJ to continue managing the important work of that office.

H.R. 5710 also includes legislation I cosponsored to require information sharing among Federal, state, and local law enforcement agencies.

The Department of Homeland Security will have a strong law enforcement role, but this role is distinct from that of the Department of Justice, which remains the principal law enforcement agency of the United States.

The role of the Department of Justice is further enhanced by the transfer to it the Bureau of Alcohol, Tobacco and Firearms and the law enforcement training functions of the Federal Law Enforcement Training Center.

The Homeland Security bill will improve our nation's immigration system by restructuring the INS. The INS has proven time after time that in its current form it is unable to handle the implementation of our nation's immigration laws. Among other improvements, the INS will be split into two agencies—one to handle services and one to handle enforcement. This will greatly improve the effectiveness and efficiency of our immigration system.

Defending against terrorists who can strike almost any time anywhere requires a change in how we approach the problem. The Department of Homeland Security will have a clear focus and clear mission to protect Americans from terrorists whether inside or outside our borders.

I urge my colleagues to support final passage.

Mr. THOMAS. Mr. Speaker, I rise in support of H.R. 5710 creating the Homeland Security Act of 2002.

The protection that we seek today with the creation of the new Department is for our people, our property, and our economy. The U.S. Customs Service has been on the frontline supporting and defending our nation for more than 200 years, since its creation by the fifth Act of Congress as the first Federal agency of the new Republic. The many functions of Customs are as important today as they were at the start of our nation.

Passage of the Homeland Security Act of 2002 is the right decision for the country. This

country is only as safe and secure as the economy that supports it. Last year over \$1 trillion in merchandise was imported into the country. That is indispensable fuel for our economy. Customs collected over \$20 billion of revenue. I am pleased the final bill keeps important elements recommended by the Ways and Means Committee in order to protect the trade functions of the Customs Service that are so vital to the strength of this land. In particular, the bill keeps Customs core revenue functions whole, which ensures that the many trade and enforcement functions will be carried out.

Our bipartisan agreement in this bill:

Transfers the Customs Service in its entirety to the Department of Homeland Security Division for Border and Transportation Security.

Identifies revenue-related offices and functions within Customs (about 25 percent of the agency) and prohibits reorganization or decrease in their resources or staff.

Requires that adequate staffing of customs revenue services be maintained, and requires timely notice to Congress of actions that would reduce such service.

Maintains the Commissioner of Customs as Senate-confirmed.

Transfers all authority exercised by Customs to Homeland Security with the exception of revenue collecting authority, which would remain at the Treasury Department. Treasury may delegate this authority to Homeland Security.

On this last point I would like to clarify that our purpose has been for the Treasury Department to remain integrated in the revenue, trade, and macroeconomic aspects of Customs' work. As such, we do not expect a wholesale abandonment of involvement by Treasury. We will scrutinize any delegation to assure that it fits within the purpose envisioned by Congress.

For these reasons I urge a "yes" vote on House Resolution 5710.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise in strong support of this bill and to commend my good friend, Majority Leader ARMEY for his efforts in putting together this bipartisan package. This legislation will allow us to have a coordinated response to any future terrorist threat. H.R. 5710 includes many critical provisions I authored that will allow us to work closely with the private sector to deploy the latest technology solutions, address ongoing information security weaknesses within the federal government, and facilitate necessary information sharing among our critical infrastructures.

The events of September 11th and the ensuing war on terrorism have raised an unprecedented awareness of the vulnerabilities we face. This has naturally focused more attention on security issues, particularly with respect to information security. From my work in the Government Reform Committee, it is clear that the state of federal information security suffers from a lack of coordinated, uniform management. Federal information systems continue to be woefully unprotected from both malevolent attacks and benign interruptions.

Poor information security management has persisted in both the public and private sectors long before IT became the ubiquitous engine driving governmental, business, and even home activities. As our reliance on technology and our desire for interconnectivity have grown, our vulnerability to attacks on Federal

information systems has grown exponentially. The high degree of interdependence between information systems, both internally and externally, exposes the Federal government's computer networks to potentially serious disruptions.

Title X of H.R. 5710, the Federal Information Security Management Act (FISMA), will require that agencies utilize information security best practices that will ensure the integrity, confidentiality, and availability of Federal information systems. It builds on the foundation laid by the Government Information Security Reform Act (GISRA), which requires every Federal agency to develop and implement security policies that include risk assessment, risk-based policies, security awareness training, and periodic reviews.

FISMA will achieve several objectives vital to Federal information security. Specifically, it will:

1. Remove GISRA's sunset clause and permanently require a Federal agency-wide risk-based approach to information security management with annual independent evaluations of agency information security practices;

2. Require all agencies to implement a risk-based management approach to developing and implementing information security measures for all information and information systems;

3. Streamline and make technical corrections to GISRA to clarify and simplify its requirements;

4. Strengthen the role of NIST in the standards-setting process; and

5. Require OMB to implement minimum and mandatory standards for Federal information and information systems, and to consult with the Department of Homeland Security regarding the promulgation of these standards.

At a time when uncertainty threatens confidence in our nation's preparedness, the Federal government must make information security a priority. We demand that in our networked era, where technology is the driver, every Federal information system must be managed in a way that minimizes both the risk that breach or disruption will occur and the harm that would result should such a disruption take place. Chairman ARMEY understands this and has shown tremendous leadership by this including this critical language in this legislation.

Additionally, the bill includes the Critical Infrastructure Protective Act, which I developed after reviewing Presidential Decision Directive (PDD) 63 that identified the ongoing statutory barriers to information sharing. This important bill includes a FOIA exemption for critical infrastructure information along with recognition for private sector information sharing organizations (ISOs). It also includes a use protection for information shared with the government and a process based on the Defense Production Act of 1959 to address potential antitrust concerns.

In Presidential Decision Directive 63 issued by the previous Administration, concerns about the Freedom of Information Act, antitrust, and liability were identified as primary barriers to facilitating information sharing with the private sector.

The critical infrastructure of the United States is largely owned and operated by the private sector. Critical infrastructures are those systems that are essential to the minimum operations of the economy and government. Tra-

ditionally, these sectors operated largely independently of one another and coordinated with government to protect themselves against threats posed by traditional warfare. Today, these sectors must learn how to protect themselves against unconventional threats such as terrorist attacks, and cyber intrusions.

We must, as a nation, prepare both our public and private sectors to protect ourselves against such efforts. As we discovered when we went to the caves in Afghanistan, the Al Qaeda groups had copies of GAO reports and other government information obtained through FOIA. While we work to protect our nation's assets in this war against terrorism, we also need to ensure that we are not arming terrorists.

Today, the private sector has established many information sharing organizations (ISOs) for the different sectors of our nation's critical infrastructure. Information regarding potential physical or cyber vulnerabilities is now shared within some industries, but it is not shared with the government, and it is not shared across industries. The private sector stands ready to expand this model but has also expressed concerns about voluntarily sharing information with the government and the unintended consequences it could face for acting in good faith.

Specifically, there has been concern that industry could potentially face antitrust violations for sharing information with other industry partners, have their shared information be subject to the Freedom of Information Act, or face potential liability concerns for information shared in good faith. Additionally, this FOIA exemption extends the protection for FOIA to information shared at the state and local government level. Also, this bill gives the Secretary of Homeland Security the authority to share information protected under this FOIA exemption to share it with other impacted federal agencies while continuing to enjoy the protection. My language included in H.R. 5005 will address all three of these concerns. Additionally, consumers and operators will have the confidence they need to know that information will be handled accurately, confidentially, and reliably.

The Critical Infrastructure Information Act procedures are closely modeled after the successful Year 2000 Information and Readiness Disclosure Act by providing a limited FOIA exemption, civil litigation protection for shared information, and a new process for resolving potential antitrust concerns for information, shared among private sector companies for the purpose of correcting, avoiding, communicating or disclosing information about a critical infrastructure threat or vulnerability.

This legislation will enable the private sector, including ISOs, to move forward without fear from government, so that government and industry may enjoy a mutually cooperative partnership. This will also allow us to get a timely and accurate assessment of the vulnerabilities of each sector to physical and cyber attacks and allow for the formulation of proposals to eliminate these vulnerabilities without increasing government regulation, or expanding unfunded federal mandates on the private sector.

Also, H.R. 5710 includes language that I developed to allow for reaching out to new technology companies that may not be doing business with the government. We all know that the Federal, State and local governments

will spend billions and billions of dollars to fight the war against terror. Contentious floor debates aside, we all support these efforts. But to me, the question isn't simply how much we spend, but how well we spend it.

Since the tragic events of 9/11 the Government, in general, and the Office of Homeland Security, in particular has been overwhelmed by a flood of industry proposals offering various solutions to our homeland security challenges. Because of a lack of staffing expertise, many of these proposals have been sitting unevaluated, perhaps denying the government breakthrough technology.

In February, I held a hearing in my Subcommittee on Technology and Procurement Policy on homeland security challenges facing the government. One theme that was expressed unanimously by industry was the need for an organized, cohesive, comprehensive process within the Government to evaluate private-sector solutions to homeland security problems. Now we have part of the solution, with the creation of the new Department of Homeland Security in the bill on the floor today. Section 313 of this bill will close the loop and provide a vehicle to get these solutions into government and to the front lines in the war against terror.

Section 313 of the Homeland Security Act establishes within the Department a program to meet the current challenge faced by the Federal government, as well as by state and local entities, in leveraging private sector innovation in the fight against terror. The section would establish a focused effort by:

Creating a centralized Federal clearinghouse in the new Department for information relating to terror-fighting technologies for dissemination to Federal, State, local and private sector entities and to issue announcements to industry seeking unique and innovative anti-terror solutions.

Establishing a technical assistance team to assist in screening proposals for terror-fighting technology to assess their feasibility, scientific and technical merit and cost.

Providing for the new Department to offer guidance, recommendations and technical assistance to Federal, State, local and private efforts to evaluate and use anti-terror technologies and provide information relating to Federal funding, regulation, or acquisition regarding these technologies.

Since September 11, we have all been struggling to understand what changes will occur in our daily lives, in our economy, and within the Government. We now will establish a new Department of Homeland Security to focus and coordinate the war against terror. The new section 313 in this landmark legislation will give the new Department the framework it needs to examine and act on the best innovations the private sector has to offer.

I am pleased to also have authored section 834 at the request of the Select Committee to allow federal agencies government-wide to accept unsolicited proposals. The language directs the FAR Council to amend FAR Part 15 to ensure that a proposal has not been submitted in relation to a previously published proposal. This ensures that contracting officials are not improperly avoiding a full and open competition. Existing ambiguity in the FAR language made government contracting officials hesitant to review and accept unsolicited proposals. The change recognizes the longstanding procurement reform goal of al-

lowing contracting officials to include "best value" factors when reviewing such a proposal, and adds "technical merit" as a new criteria, which allows officials to review a proposal for potential future benefit. This language is critical as federal agencies attempt to update their information technology systems to better integrate information and serve the taxpayer. This is another step forward in moving the Federal government to a more commercial acquisition environment. This change in the FAR will allow federal agencies to rapidly acquire new products and services to assist them in winning the war on terrorism.

In ordinary times, primarily because of recent acquisition reforms, the current acquisition system will enable the new Department of Homeland Security to buy what it needs with reasonable efficiency. While we all hope that it will never be needed, we also know that in an emergency the new Department may have to quickly and efficiently acquire the high tech and sophisticated products and services needed for its critical mission. The provisions in H.R. 5710 would permit the Department to quickly acquire the emergency goods and services it needs while maintaining safeguards against wasteful spending. This authority is easily accessed by Department of Homeland Security officials through a written determination.

The acquisition provisions build on contracting authorities currently place; in fact, the procedures appear in Part 13 of the Federal Acquisition Regulation and provide for an extension of these authorities only upon a determination of the Secretary of Homeland Security or one of his Senatorially confirmed officials that the terror fighting mission of the new Department would be seriously impaired without their use. The new authorities would sunset at the end of fiscal year 2007. The GAO would be required to report to the Committee on Government Reform assessing the extent to which the authorities contributed to the mission of the Department, the extent to which the prices paid reflect best value, and the effectiveness of the safeguards put in place to monitor the use of the new authorities. The current government-wide procurement laws will govern the Department's "normal" purchases.

Specifically, the provisions would raise the current micro-purchase threshold from \$2,500 to \$7,500. It would raise the current \$100,000 threshold for simplified acquisition procedures to \$200,000 for use within the United States and \$300,000 for overseas missions, and permit the application of the current streamlined commercial acquisition procedures and statutory waivers to noncommercial goods and services and increase the current \$5,000,000 ceiling on the use of streamlined commercial procedures to \$7,500,000 for these goods and services.

How could these new authorities be used?

Well, for example, the increase in the micro-purchase threshold could be used in the event of a terror attack, to permit a Department of Homeland Security official at the scene to rent several floors of a nearby hotel to house rescue workers by simply presenting his Government credit card.

The increase in the simplified acquisition threshold would permit a Department official to quickly enter into a \$200,000 contract for specialized medical services for rescue workers responding to a terror attack.

The application of streamlined commercial acquisition procedures would permit the Department to conduct a limited competition among high technology firms for a specialized advisory and assistance services contract valued at \$7,500,000 to fight a cyber-attack.

Moreover, I am pleased that the House accepted the Senate Federal Emergency Procurement Flexibility Act. This basically extends the same emergency procedures given to the new Department to all Federal agencies to use to prepare for, or in response to a nuclear, biological, chemical, or radiological attack or an act of terrorism for the next fiscal year. This is based on legislation that I had introduced with my colleague and Chairman, DAN BURTON and with Senators JOHN WARNER and FRED THOMPSON at the request of Governor Tom Ridge. While this authority is not as accessible as it is for the Department of Homeland Security, it will certainly go a long way to giving all federal agencies additional help in winning the war on terrorism.

H.R. 5710 gives the Administration the necessary management flexibilities it will need to set up the new Department while maintaining longstanding statutory protections for the American taxpayer and for federal employees. In the civil service area, we struck the proper balance between needed flexibility and important employee protections. Dedicated federal employees, by virtue of the bill's new 30-day mediation period, have received the assurances they asked for, while the American people will have the benefit of a flexible, modern-day workforce that can respond to ever-evolving threats.

I worked hard to make sure aspects of Senator VOINOVICH'S human capital management legislation were included in the legislation; for example, having Human Capital Officers within each agency ensures that the Department's employees will be given the tools they need to prosper and develop professionally. And the demonstration project authority, which includes a pay-for-performance component, is a critical step that will help give the new department the ability to attract and retain the very best employees.

Finally, Mr. Speaker, I would again like to thank Majority Leader ARMEY for his outstanding leadership on this vital piece of legislation. Today, we are giving President Bush legislation that he has deemed critical to winning the war on terrorism. Majority Leader ARMEY and his talented staff worked tirelessly to ensure that we would get this legislation done this year. I am proud to have worked with my House colleagues and the Select Committee on H.R. 5710.

Mr. STENHOLM. Mr. Speaker, the protection of our national security from terrorist threats is a serious and sober matter. Since the events of September 11, 2001, we have all labored under a heightened awareness of the weight of that responsibility. This legislation represents an attempt to balance a wide array of far-flung government duties against one most-significant federal duty, the protection of the life and the liberty of each U.S. citizen. It is my hope that this legislation will help our government to more effectively execute that supreme trust, while not compromising lesser responsibilities that are, non-the-less, critical to our nation's welfare.

With that hope in mind, the House Committee on Agriculture acted earlier this year to mark up provisions of the Homeland Security

legislation that impacted the duties of the U.S. Department of Agriculture. Two areas of concern were the transfer of the Plum Island Animal Disease Laboratory to the new Department of Homeland Security, and the transfer of certain USDA border inspection functions to that same new agency. Our intent as included in House Report 107-609 accompanying H.R. 5005 is as follows:

Sec. 310. Transfer of Plum Island Animal Disease Center, Department of Agriculture. Transfers the Plum Island Animal Disease Center from the Department of Agriculture to the Department of Homeland Security and requires the Secretary of Agriculture and the Secretary of Homeland Security, upon completion of the transfer, to enter into an agreement providing for continued access by USDA for research, diagnostic and other programs.

The Committee recognizes the critical importance of the Plum Island Animal Disease Center to the safety and security of animal agriculture in the United States. The Committee expects that the transfer of this foreign animal disease facility to the Department of Homeland Security shall be completed in a manner that minimizes any disruption of agricultural research, diagnostic or other Department of Agriculture activities. Likewise, the Committee expects that funds that have and continue to be appropriated for the maintenance, upgrade, or replacement of agricultural research, diagnostic and training facilities at the Plum Island Animal Disease Center shall continue to be expended for those purposes.

The Committee shares the goal of expanding the capabilities of the Plum Island Animal Disease Center. Likewise, the Committee supports the accompanying goal of building agroterrorism prevention capabilities within the Department of Homeland Security. With this in mind, the Committee fully expects that in the absence of alternative facilities for current Department of Agriculture activities, the Secretary of Homeland Security shall make every possible effort to expand and enhance agricultural activities related to foreign animal diseases at the Plum Island Animal Disease Center.

Sec. 421. Transfer of Certain Agricultural Inspection Functions of the Department of Agriculture.

(a) Transfers to the Secretary of Homeland Security the functions of the Secretary of Agriculture relating to agricultural import and entry inspection activities.

The committee is aware that the Agricultural Quarantine and Inspection Program of the Department of Agriculture's Animal and Plant Health Inspection Service conducts numerous activities with respect to both domestic and international commerce in order to protect the health of agriculturally important animals and plants within the United States. Within the Department of Homeland Security will be created a mission area of Border and Transportation Security. In order that the new streamlined border security program operates efficiently, the Committee has transferred to the Department of Homeland Security the responsibility for certain agricultural import and entry inspection activities of the Department of Agriculture conducted at points of entry. This transfer will include the inspection of arriving passenger's luggage, cargo and means of conveyance into the United States to the Under Secretary for Border and Transportation Security. In addition to inspections at points of entry into the United States, responsibility for inspections of pas-

sengers, luggage and their means of conveyance, at points of departure outside the United States, where agreements exist for such purposes, shall be the responsibility of the Secretary of Homeland Security. The provision allows the Secretary of Homeland Security to exercise authorities related to import and entry inspection functions transferred including conducting warrantless inspections at the border, collecting samples, holding and seizing articles that are imported into the United States in violation of applicable laws and regulations, and assessing and collecting civil penalties at the border. The Committee intends that the Department of Agriculture will retain the responsibility for all other activities of the Agricultural Quarantine and Inspection Program regarding imports including pre-clearance of commodities, trade protocol verification activities, fumigation activities, quarantine, diagnosis, eradication and indemnification, as well as other sanitary and phytosanitary measures. All functions regarding exports, interstate and intrastate activities will remain at the Department of Agriculture.

(b) Delineates the laws governing agricultural import and entry inspection activities that are covered by the transfer of authorities.

The Committee is aware that the authority to inspect passengers, cargo, and their means of conveyance coming into the United States is derived from numerous statutes that date back, in some cases, more than 100 years. The Committee does not intend that the reference to these statutes should be construed to provide any authority to the Secretary of Homeland Security beyond the responsibility to carry out inspections (including pre-clearance inspections of passengers, luggage and their means of conveyance in such countries where agreements exist for such purposes) and enforce the regulations of the Department of Agriculture at points of entry into the United States.

(c) Excludes quarantine activities from the term "functions" as defined by this Act for the purposes of this section.

While agricultural inspection functions, as well as those related administrative and enforcement functions, shall be transferred and become the responsibility of the Secretary of Homeland Security, the legislation retains all functions to quarantine activities and quarantine facilities within the Department of Agriculture. Although the Committee has excluded quarantine activities from those functions transferred to the Department of Homeland Security, the Committee does not intend to preclude the Secretary of Homeland Security from taking actions related to inspection functions such as seizure or holding of plant or animal materials entering the United States. These authorities fall within the purview of inspection related enforcement functions that shall be transferred to the Secretary of Homeland Security.

(d) Requires that the authority transferred to the Secretary of Homeland Security shall be exercised in accordance with the regulations, policies and procedures issued by the Secretary of Agriculture; requires the Secretary of Agriculture to coordinate with the Secretary of Homeland Security whenever the Secretary of Agriculture prescribes regulations, policies, or procedures for administering the covered laws related to the functions transferred under subsection (a); provides that the Secretary of Homeland Security, in consultation with the

Secretary of Agriculture, may issue guidelines and directives to ensure the effective use of personnel of the Department of Homeland Security to carry out the transferred functions.

One intention of this legislation is to create a streamlined Border and Transportation Security program at points of entry into the United States. With regard to the protection of animal and plant health, the Committee does not intend or expect the Department of Homeland Security to make the determination of what animals, plants, animal or plant products, soils, or other biological materials present an unacceptable risk to the agriculture of the United States. Policies and procedures regarding actions necessary to detect and prevent such unacceptable risks shall remain the responsibility of the Secretary of Agriculture. Likewise, policies and regulations defining restrictions on movement into the United States of substances that would pose a threat to agriculture shall continue to be the responsibility of the Secretary of Agriculture.

The Committee has provided authority for the Secretary of Homeland Security to issue directives and guidelines in consultation with the Secretary of Agriculture in order to efficiently manage inspection resources. When exercising this authority, the Committee expects that the agricultural inspection function at points of entry into the United States shall not be diminished, and as a result, the Committee expects that Secretary of Homeland Security shall ensure that necessary resources are dedicated to carrying out agricultural inspection functions transferred from the Department of Agriculture.

(e) Requires the Secretary of Agriculture and the Secretary of Homeland Security to enter into an agreement to effectuate the transfer of functions. The agreement must address the training of employees and the transfer of funds. In addition the agreement may include authority for the Secretary of Homeland Security to perform functions delegated to APHIS for the protection of domestic livestock and plants, as well as authority for the Secretary of Agriculture to use employees of the Department of Homeland Security to carry out APHIS functions.

The Committee is aware of the unique nature and the specialized training necessary for effective and efficient border inspection activities carried out by the Agricultural Quarantine and Inspection Program. The Committee expects that the training of personnel and detector dogs for this highly specialized function will continue to be supervised by the Department of Agriculture.

While a large proportion of the personnel employed by the Agricultural Quarantine and Inspection Program are permanently stationed at one of 186 points of entry into the United States, the Committee is aware that the Secretary of Agriculture commonly redeploys up to 20% of the border inspection force in order to manage agricultural pests and diseases throughout the United States. In completing the transfer of Agricultural Quarantine and Inspection Program border inspectors to the Department of Homeland Security, the Committee expects that the Secretary of Agriculture and the Secretary of Homeland Security will enter into an agreement whereby inspection resources, where possible, would continue to be made available to the Secretary of Agriculture in response to domestic agricultural needs.

(f) Provides that the Secretary of Agriculture shall transfer funds collected by fee authorities to the Secretary of Homeland Security so long as the funds do not exceed the proportion of the costs incurred by the Secretary of Homeland Security in carrying out activities funded by such fees.

Beginning in fiscal year 2003, the unobligated balance of the Agricultural Quarantine and Inspection Fund will be transferred to other accounts within the Department of Agriculture and will be used to carry out import and domestic inspection activities, as well as animal and plant health quarantine activities, without additional appropriations. Fees for inspection services shall continue to be collected and deposited into these accounts in the manner prescribed by regulations issued by the Secretary of Agriculture. In effectuating the transfer of agricultural import inspection activities at points of entry into the United States, the Committee intends that funds from these accounts shall be transferred to the Department of Homeland Security in order to reimburse the Department of Homeland Security for the actual inspections carried out by the Department. The Committee expects that the Secretary of Agriculture shall continue to manage these accounts in a manner that ensures the availability of funds necessary to carry out domestic inspection and quarantine programs.

(g) Provides that during the transition period, the Secretary of Agriculture shall transfer to the Secretary of Homeland Security up to 3,200 full-time equivalent positions of the Department of Agriculture.

(h) Makes conforming amendments to Title V of the Agricultural Risk Protection Act of 2000 related to the protection of inspection animals.

Mr. COMBEST. Mr. Speaker, I rise in support of H.R. 5710, the Homeland Security Act of 2002. I appreciate the cooperation of the Select Committee on Homeland Security as the Agriculture Committee developed its recommendations relating to agricultural import and entry inspection activities and the Plum Island Animal Disease Center.

The inspection programs administered by the Animal and Plant Health Inspection Service are designed to prevent both the intentional and inadvertent introduction of harmful plant and animal pests and diseases into the U.S. ecosystem—pests and diseases that could threaten the abundance and variety of the U.S. food supply and cost American taxpayers hundreds of millions of dollars to eradicate.

On average, more than 250,000 people travel to the United States each day. In addition, there are millions and millions of pieces of international mail and countless commercial import and export shipments. As part of the USDA program, Plant Protection and Quarantine officers, with help from detector dogs in the USDA's Beagle Brigade which sniff luggage for hidden fruits and vegetables, inspect passenger baggage, mail, and cargo at all U.S. ports of entry.

USDA officers make about 2 million interceptions of illegal agricultural products every year. Included in that total are more than 295,000 lots of unauthorized meat and animal byproducts that have the potential to carry diseases to American livestock and poultry. Inspectors also find nearly more than a 100,000 plant pests and diseases that could have been dangerous to our agricultural industry.

The Administration's original proposal to move APHIS in its entirety was made in good faith. However, many of our constituents raised concerns about the scope of the proposal. While most organizations testified that the border inspection function of the USDA could theoretically be transferred, they did so with many concerns regarding the delivery of inspection services critical to the mission of safeguarding against the introduction of plant and animal pests and diseases.

After a hearing in the Agriculture Committee on June 26th, and numerous meetings with the Officer of Homeland Security, the Administration agreed to accept modifications of their original proposal. Instead of taking the entire Animal Plant & Health Inspection Service to the Department of Homeland Security, the Administration has accepted our proposal transferring just those agency personnel actually conducting import and entry inspections. The Plum Island Animal Disease Center would be transferred to the new Department, but access would be provided for USDA to continue research, diagnostic and other necessary activities.

Under our recommendation, the rest of APHIS would remain at the Department of Agriculture and would continue to operate largely as it does today. Additionally, USDA will set the policy for the border inspections to be conducted by the Department of Homeland Security and will supervise the training of those inspectors. All of the remaining functions, such as protecting animal and plant health, facilitating imports and exports, administering the Animal Welfare Act, operating Wildlife Services and providing technical support for trade negotiations, will remain at USDA.

Mr. Speaker, further clarification of the intent of the House Committee on Agriculture was included in House Report 107-609 which accompanied the original legislation—H.R. 5005. The description of the Committee's action and a statement of Congressional intent with regards to the provisions affecting agricultural programs is as follows:

Sec. 310. Transfer of Plum Island Animal Disease Center, Department of Agriculture. Transfers the Plum Island Animal Disease Center from the Department of Agriculture to the Department of Homeland Security and requires the Secretary of Agriculture and the Secretary of Homeland Security, upon completion of the transfer, to enter into an agreement providing for continued access by USDA for research, diagnostic and other programs.

The Committee recognizes the critical importance of the Plum Island Animal Disease Center to the safety and security of animal agriculture in the United States. The Committee expects that the transfer of this foreign animal disease facility to the Department of Homeland Security shall be completed in a manner that minimizes any disruption of agricultural research, diagnostic or other Department of Agriculture activities. Likewise, the Committee expects that funds that have and continue to be appropriated for the maintenance, upgrade, or replacement of agricultural research, diagnostic and training facilities at the Plum Island Animal Disease Center shall continue to be expended for those purposes.

The Committee shares the goal of expanding the capabilities of the Plum Island Animal Disease Center. Likewise, the Committee supports the accompanying goal of building agroterrorism prevention capabilities within the De-

partment of Homeland Security. With this in mind, the Committee fully expects that in the absence of alternative facilities for current Department of Agriculture activities, the Secretary of Homeland Security shall make every possible effort to expand and enhance agricultural activities related to foreign animal diseases at the Plum Island Animal Disease Center.

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(b) Delineates the laws governing agricultural import and entry inspection activities that are covered by the transfer of authorities.

The Committee is aware that the authority to inspect passengers, cargo, and their means of conveyance coming into the United States is derived from numerous statutes that date back, in some cases, more than 100 years. The Committee does not intend that the reference to these statutes should be construed to provide any authority to the Secretary of Homeland Security beyond the responsibility to carry out inspections (including pre-clearance inspections of passengers, luggage and

their means of conveyance in such countries where agreements exist for such purposes) and enforce the regulations of the Department of Agriculture at points of entry into the United States.

(c) Excludes quarantine activities from the term "functions" as defined by this Act for the purposes of this section.

While agricultural inspection functions, as well as those related administrative and enforcement functions, shall be transferred and become the responsibility of the Secretary of Homeland Security, the legislation retains all functions related to quarantine activities and quarantine facilities within the Department of Agriculture. Although the Committee has excluded quarantine activities from those functions transferred to the Department of Homeland Security, the Committee does not intend to preclude the Secretary of Homeland Security from taking actions related to inspection functions such as seizure or holding of plant or animal materials entering the United States. These authorities fall within the purview of inspection related enforcement functions that shall be transferred to the Secretary of Homeland Security.

(d) Requires that the authority transferred to the Secretary of Homeland Security shall be exercised in accordance with the regulations, policies and procedures issued by Secretary of Agriculture; requires the Secretary of Agriculture to coordinate with the Secretary of Homeland Security whenever the Secretary of Agriculture prescribes regulations, policies, or procedures for administering the covered laws related to the functions transferred under subsection (a); provides that the Secretary of Homeland Security, in consultation with the Secretary of Agriculture, may issue guidelines and directives to ensure the effective use of personnel of the Department of Homeland Security to carry out the transferred functions.

One intention of this legislation is to create a streamlined Border and Transportation Security program at points of entry into the United States. With regard to the protection of animal and plant health, the Committee does not intend or expect the Department of Homeland Security to make the determination of what animals, plants, animal or plant products, soils, or other biological materials present an unacceptable risk to the agriculture of the United States. Policies and procedures regarding actions necessary to detect and prevent such unacceptable risks shall remain the responsibility of the Secretary of Agriculture. Likewise, policies and regulations defining restrictions on movement into the United States of substances that would pose a threat to agriculture shall continue to be the responsibility of the Secretary of Agriculture.

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enter into an agreement to effectuate the transfer of functions. The agreement must address the training of employees and the transfer of funds. In addition the agreement may include authority for the Secretary of Homeland Security to perform functions delegated to APHIS for the protection of domestic livestock and plants, as well as authority for the Secretary of Agriculture to use employees of the Department of Homeland Security to carry out APHIS functions.

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(h) Makes conforming amendments to Title V of the Agriculture Risk Protection Act of 2000 related to the protection of inspection animals.

Mr. NEAL of Massachusetts. Mr. Speaker, I rise today in support of our mission to protect and secure the homeland, but also to oppose the efforts of those who excuse corporate expatriation.

Since September 11th, this nation has pulled together to fight the war on terrorism. And now, with more military action looming, we must face the fact that fighting a war and combating terrorism costs money. To fully fund the needs of our military and homeland security, every American taxpayer, individual and corporation alike, must be prepared to pay their fair share.

If corporate expatriates are not paying their tax bills (and evidence shows they avoid paying \$4 billion worth), the American people know that someone will have to pick up the slack. We should use everything in our arsenal to stop corporate expatriation. No more government contracts for financial traitors. No more tax benefits for runaway corporations.

I regret that the Republican leaders struck the very reasonable federal contract ban from this bill—a ban supported by 318 Members of this House—and inserted instead an ineffective provision that affects no one.

Corporate expatriates cheat the federal government out of needed tax revenues and then have the audacity to return for a federal handout. However, the sensible contract ban passed by the House and then championed in the Senate by the late Paul Wellstone, was watered down to the ineffective provision we are debating today. Regrettably, this provision only affects companies who leave after the date of enactment. It makes as much sense as closing the barn door after all the cows are out.

Let's take Tyco, formerly of New Hampshire, now of Bermuda, for example. Tyco, which will be unaffected by the ban in this bill, avoids paying \$400 million a year in U.S. taxes by setting up a shell headquarters offshore, but was awarded \$182 million in lucrative defense and homeland security related contracts in 2001 alone. If Tyco had just paid its tax bill, Congress could have easily paid for 400 explosive detection systems (EDS), which are badly needed to protect U.S. travelers at airports around the nation.

Or let's examine corporate expatriate Ingersoll-Rand, formerly of New Jersey, and now also in Bermuda. Ingersoll-Rand, also unaffected by this bill, earned as much last year in U.S. defense and homeland security federal contracts as it avoids in U.S. taxes annually merely by renting a mailbox in Bermuda and calling it 'home.' If Ingersoll-Rand paid its U.S. tax bill, Congress could easily fund the proposed Cyberspace Warning Intelligence Network estimated to cost \$30 million, or could also buy 400,000 gas masks for American citizens.

Mr. Speaker, the leadership of this House has thwarted all efforts to have a legitimate debate and vote on HR 3884, The Corporate Patriot Enforcement Act, a bipartisan bill to deny the benefits to corporations who flee to tax havens. We must show the American people that this Congress will not coddle corporate abusers. These financial traitors are escaping income taxes, and then, profiting from the very government they have left behind.

I urge my colleagues to fight for tax fairness, any way we can get it.

Ms. PRYCE of Ohio. Mr. Speaker, it has been nearly five months since the President

called upon Congress to create a new Department of Homeland Security, and nearly four months since the House first took up that task. This legislation has been through a long journey, full of procedural and partisan roadblocks, weighed down by special interests, and slowed by a storm of misdirection.

I could not be more pleased that we are here today with this compromise legislation that will finally allow us to move the bill to the President's desk. This is a historic achievement.

In recent days, members of the House and Senate have been through a thoughtful, thorough, and cooperative process. Every effort was made to address each concern while maintaining a basic framework that creates an effective department.

This legislation will give the new Department of Homeland Security the tools it needs to succeed in its mission. And this, in my mind, is the key, because the new department's most basic and core mission will be to secure America from terrorist attack.

On September 11, 2001, the streets of New York and Northern Virginia were turned to ash, while a grassy field in Pennsylvania played quiet witness to the final act of a heroic group of Americans. Creation of the Department of Homeland Security is the bold and necessary next step we must take to ensure that this dark day is never repeated.

We are not creating new government, we are creating better government. We are not legislating new bureaucracy, we are streamlining to face a new threat. We are making government smarter, more flexible, and ultimately, better able to secure America.

The perpetrators of terrorism are shadowy and agile, and they target us like predators without distinction between military target and ordinary citizen. They are a 21st Century enemy with an agelessly corrupt goal-destruction of life, elimination of liberty, and restriction of human freedom.

Our enemy has recognized that our greatest strength—the open society in which we live—also makes us vulnerable to their attacks. We fight this enemy not just on battlefields abroad, but in our very cities and towns. We must be able to respond at home in a strong, coordinated and agile way.

The new cabinet-level department is only one part of our national response, but it is an essential part. The new Department will consolidate the vital preparedness, intelligence analysis, law enforcement, and emergency response functions that are currently dangerously dispersed among numerous federal departments and agencies.

And in the process, the legislation balances the need to protect America with the need to preserve the American way of life that we are protecting.

Thus far, the government has shown immense resolve and dedication, going to extraordinary lengths to respond to the terrorist threat. We are safer than we were on September 10th one year ago. But as the government's efforts reach the limits of their bureaucracies, we must rethink our government structure so that our nation can be even stronger, smarter, and better prepared.

One of our revolutionary forefathers, George Mason, once said, "Government is, or ought to be, instituted for the common benefit, protection and security of the people, nation or community."

Make no mistake—our work today undertakes this very core function of government to secure the American people. I urge all of my colleagues to take measure of the task before us, and to support this fair rule and the underlying bill.

It has been a long journey, but this legislation, and the American people, are all the better for it.

Mrs. ROUKEMA. Mr. Speaker, I rise today in strong support of H.R. 5710, the Homeland Security Act of 2002.

At last, Members of both parties and the Administration have put their differences aside and agreed on a strong bill that will make America safer by creating a Cabinet-level Department of Homeland Security to unite essential agencies in our fight against terrorism here at home and abroad.

On the morning of September 11, 2001, a new enemy brought war to our shores. An enemy that considers any innocent man, woman, or child that cherishes freedom a target. An enemy that does not necessarily call any nation home. And an enemy that can hide for years in plain sight and in our own neighborhoods.

This new kind of war, that makes where we live and work a potential battleground, calls for a new response. The United States is a nation at risk of terrorist attacks and it will remain so for the foreseeable future. We need to strengthen our efforts to protect America, and the current governmental structure limits our ability to do so.

When President Bush established the Office of Homeland Security in October 2001, its fundamental mission would be to prevent terrorist attacks within the United States, reduce America's vulnerability to terrorism, and minimize the damage and recovery from attacks that do occur. Mr. Speaker, I believe this new bill will achieve this mission.

The new department will combine 170,000 workers from 22 agencies, including the ATF, Border Patrol, Coast Guard and Customs Service, into a Department of Homeland Security with a \$37 billion budget. It balances concerns of federal workers with the need of the President to make personnel decisions in the interest of national security. It brings all immigration responsibilities under the Secretary of Homeland Security. Immigration services will be kept separate from enforcement functions within the Department. This will provide the INS the leadership, direction, and focus that I have been advocating for years.

Now all the necessary functions of government to keep our nation safe at home will fall under one department—where they should be. And that department will be part of the President's cabinet—and that is where it should be.

Let me add Mr. Speaker that leading a massive new federal department that is charged with protecting the homeland during such dangerous times is a Herculean task. There is no one in the nation more capable and prepared to provide that leadership than our former colleague Tom Ridge. Governor Ridge was called on by the President shortly after the tragic attacks on our nation and stepped into the breach to provide leadership on homeland security. This is not the first time he has answered his nation's call in time of war.

His leadership over the past year has prepared our nation and our government for the task ahead. Governor Ridge will succeed and I wish him well.

Finally Mr. Speaker, passage of this bill is the last of the profound accomplishments that this Congress has achieved since September 11, 2001. I am proud of the wise and prudent decisions we have made. Even though many on both sides have disagreed over details and those details have taken longer to work out than I would have liked, we have never disagreed on the goal of our actions. That goal is to protect and defend our nation in this new and awful era of war.

We may suffer another dastardly attack on our shores—given the diabolic treachery in which our enemy deals, it is probably certain they will attempt to attack us again. But we will endure, care for our own, and stand taller than before. As always, we did not ask for this war, especially one that attacks us at home. But we will fight it. And with the help of this legislation—we will win it.

Mr. Speaker, I urge all Members to support this legislation. God bless America.

Mr. DINGELL. Mr. Speaker, I rise today in strong support of strengthening our Nation's security, but in intense opposition to this bill before us. It will create an unwieldy and possibly unworkable department of 170,000 federal workers, and spend 4.5 billion dollars doing so.

Without a doubt, every Member of this body supports increasing America's security. However, I am troubled by the unseemly and unhelpful rush by the President and this body to hastily legislate on this matter in the closing days of this Congress. I would note that the bill we are debating is the result of a deal reached late yesterday. In fact, this bill was introduced early this morning. Why not let the public know what we are doing before we do it?

I served in Congress when we created both the Department of Transportation in 1966 and the Department of Energy in 1977. Congress held extensive hearings. There was testimony from experts in the fields. There were lengthy discussions before we created these Departments. However, even with extensive deliberation in Congress, folding diverse government agencies into one organization resulted in bureaucratic chaos that lasted for many years.

Likewise, the rush to create the Transportation Security Administration after September 11, 2001, has resulted in great confusion. TSA was created to take over security screening at our Nation's airports—a straightforward task that has not yet been accomplished. I think it would be in our Nation's best interest that the President ensures that the relatively small TSA is properly functioning before tackling a massive restructuring of the government.

I am also very concerned that this new Department will develop and operate in a culture of secrecy without adequate and proper public accountability or Congressional oversight. The changes made to the Freedom of Information Act are overly broad and restrictive. By including Section 214 as part of the backroom agreement, this body is ignoring the bipartisan compromise that was reached in the Senate and included in both the Senate Government Affairs Committee bill and the substitute offered by Senators GRAHAM and MILLER in favor of the flawed House provision.

Finally, I note that today we are talking about bureaucratic reorganization while the White House has opposed Democratic funding initiatives to enhance port security, equip local fire fighters and first responders with tools to

effectively respond to another terrorist attack, and to improve security at nuclear weapons facilities. In addition, in key critical infrastructure areas where millions of Americans may be at risk, the Bush Administration has dropped the ball. For example, at present, there are no federal standards in place to require chemical plants to assess their vulnerabilities and take steps to reduce them. The Attorney General of the United States has failed to conduct or even initiate an evaluation of the state of chemical facility security (including the security of transportation regulated substances) as required by federal law (P.L. 106-40). Bureaucratic reorganization, even on a grand scale like this bill, is no substitute for real action with respect to chemical plant security and adequate funding for critical security needs.

In sum, I have serious concerns about the management and effectiveness of this new Department. The lessons learned from past governmental reorganizations is that simply rearranging the bureaucratic boxes usually does not get the intended result—oftentimes it gets you more confusion, more expense, more people and less work. This reorganization may actually make the country more vulnerable during the lengthy transition period—not less—particularly if it becomes the substitute for needed action and funding.

Mr. ARMEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate has expired.

The amendment contained in section 2 of H. Res. 600 is considered as adopted.

Pursuant to H. Res. 600, the bill is considered read for amendment and the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. ROEMER

Mr. ROEMER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. ROEMER. I am, in its present form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. ROEMER moves to recommit the bill H.R. 5710 to the Select Committee on Homeland Security with instructions to report the same back to the House forthwith with the following amendment:

At the end, add the following new title:

TITLE XVIII—NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES

SEC. 1801. ESTABLISHMENT OF COMMISSION.

There is established the National Commission on Terrorist Attacks Upon the United States (in this title referred to as the "Commission").

SEC. 1802. PURPOSES.

The purposes of the Commission are to—

(1) examine and report upon the facts and causes relating to the terrorist attacks of September 11, 2001, occurring at the World Trade Center in New York, New York, in Somerset County, Pennsylvania, and at the Pentagon in Virginia;

(2) ascertain, evaluate, and report on the evidence developed by all relevant governmental agencies regarding the facts and circumstances surrounding the attacks;

(3) build upon the investigations of other entities, and avoid unnecessary duplication, by reviewing the findings, conclusions, and recommendations of—

(A) the Joint Inquiry of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives regarding the terrorist attacks of September 11, 2001 (hereinafter in this title referred to as the "Joint Inquiry");

(B) other executive branch, congressional, or independent commission investigations into the terrorist attacks of September 11, 2001, other terrorist attacks, and terrorism generally;

(4) make a full and complete accounting of the circumstances surrounding the attacks, and the extent of the United States' preparedness for, and response to, the attacks; and

(5) investigate and report to the President and Congress on its findings, conclusions, and recommendations for corrective measures that can be taken to prevent acts of terrorism.

SEC. 1803. COMPOSITION OF THE COMMISSION.

(a) MEMBERS.—The Commission shall be composed of 10 members, of whom—

(1) 1 member shall be appointed by the President, who shall serve as a co-chairperson of the Commission;

(2) 1 member shall be appointed by the minority leader of the Senate, in consultation with the minority leader of the House of Representatives, who shall serve as a co-chairperson of the Commission;

(3) 2 members shall be appointed by the majority leader of the Senate;

(4) 2 members shall be appointed by the Speaker of the House of Representatives;

(5) 2 members shall be appointed by the minority leader of the Senate; and

(6) 2 members shall be appointed by the minority leader of the House of Representatives.

(b) QUALIFICATIONS; INITIAL MEETING.—

(1) POLITICAL PARTY AFFILIATION.—Not more than 5 members of the Commission shall be from the same political party.

(2) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Commission may not be an officer or employee of the Federal Government or any State or local government.

(3) OTHER QUALIFICATIONS.—It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens, with national recognition and significant depth of experience in such professions as governmental service, law enforcement, the armed services, law, public administration, intelligence gathering, commerce (including aviation matters), and foreign affairs.

(4) INITIAL MEETING.—If 90 days after the date of enactment of this Act, 6 or more members of the Commission have been appointed, those members who have been appointed may meet and, if necessary, begin the operations of the Commission.

(c) QUORUM; VACANCIES.—After its initial meeting, the Commission shall meet upon the call of the co-chairpersons or a majority of its members. Six members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

SEC. 1804. FUNCTIONS OF THE COMMISSION.

(a) IN GENERAL.—The functions of the Commission are to—

(1) conduct an investigation that—

(A) investigates relevant facts and circumstances relating to the terrorist attacks of September 11, 2001, including any relevant legislation, Executive Order, regulation, plan, policy, practice, or procedure; and

(B) may include relevant facts and circumstances relating to—

(i) intelligence agencies;

(ii) law enforcement agencies;

(iii) diplomacy;

(iv) immigration, nonimmigrant visas, and border control;

(v) the flow of assets to terrorist organizations;

(vi) commercial aviation;

(vii) the role of congressional oversight and resource allocation; and

(viii) other areas of the public and private sectors determined relevant by the Commission for its inquiry;

(2) identify, review, and evaluate the lessons learned from the terrorist attacks of September 11, 2001, regarding the structure, coordination, management policies, and procedures of the Federal Government, and, if appropriate, State and local governments and nongovernmental entities, relative to detecting, preventing, and responding to such terrorist attacks; and

(3) submit to the President and Congress such reports as are required by this title containing such findings, conclusions, and recommendations as the Commission shall determine, including proposing organization, coordination, planning, management arrangements, procedures, rules, and regulations.

(b) RELATIONSHIP TO INTELLIGENCE COMMITTEES' INQUIRY.—When investigating facts and circumstances relating to the intelligence community, the Commission shall—

(1) first review the information compiled by, and the findings, conclusions, and recommendations of, the Joint Inquiry; and

(2) after that review pursue any appropriate area of inquiry if the Commission determines that—

(A) the Joint Inquiry had not investigated that area;

(B) the Joint Inquiry's investigation of that area had not been complete; or

(C) new information not reviewed by the Joint Inquiry had become available with respect to that area.

SEC. 1805. POWERS OF THE COMMISSION.

(a) IN GENERAL.—

(1) HEARINGS AND EVIDENCE.—The Commission or, on the authority of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out this title—

(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths; and

(B) subject to paragraph (2)(A), require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as the Commission or such designated subcommittee or designated member may determine advisable.

(2) SUBPOENAS.—

(A) ISSUANCE.—

(i) IN GENERAL.—A subpoena may be issued under this subsection only upon—

(I) the agreement of the co-chairpersons; or

(II) the affirmative vote of 5 members of the Commission.

(ii) SIGNATURE.—Subject to clause (i), subpoenas issued under paragraph (1)(B) may be issued under the signature of either co-chairperson or both co-chairpersons of the Commission, the chairperson of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission, and may be

served by any person designated by the co-chairperson, subcommittee chairperson, or member.

(B) ENFORCEMENT.—

(i) IN GENERAL.—In the case of contumacy or failure to obey a subpoena issued under paragraph (1)(B), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(ii) ADDITIONAL ENFORCEMENT.—In the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section, the Commission may, by majority vote, certify a statement of fact constituting such failure to the appropriate United States attorney, who may bring the matter before the grand jury for its action, under the same statutory authority and procedures as if the United States attorney had received a certification under sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194).

(b) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this title.

(C) INFORMATION FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government information, suggestions, estimates, and statistics for the purposes of this title. Each department, bureau, agency, board, commission, office, independent establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by either co-chairperson, the chairperson of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission.

(2) RECEIPT, HANDLING, STORAGE, AND DISSEMINATION.—Information shall only be received, handled, stored, and disseminated by members of the Commission and its staff consistent with all applicable statutes, regulations, and Executive Orders.

(d) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the Commission's functions.

(2) OTHER DEPARTMENTS AND AGENCIES.—In addition to the assistance prescribed in paragraph (1), departments and agencies of the United States may provide to the Commission such services, funds, facilities, staff, and other support services as they may determine advisable and as may be authorized by law.

(e) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(f) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

SEC. 1806. NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.

(a) IN GENERAL.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(b) PUBLIC MEETINGS AND RELEASE OF PUBLIC VERSIONS OF REPORTS.—The Commission shall—

(1) hold public hearings and meetings to the greatest extent feasible; and

(2) release public versions of the reports required under section 1810 (a) and (b).

(c) PUBLIC HEARINGS.—Any public hearings of the Commission shall be conducted in a manner consistent with the protection of information provided to or developed for or by the Commission as required by any applicable statute, regulation, or Executive Order.

SEC. 1807. STAFF OF THE COMMISSION.

(a) IN GENERAL.—

(1) APPOINTMENT AND COMPENSATION.—The co-chairpersons, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) PERSONNEL AS FEDERAL EMPLOYEES.—

(A) IN GENERAL.—The executive director and any personnel of the Commission who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(B) MEMBERS OF COMMISSION.—Subparagraph (A) shall not be construed to apply to members of the Commission.

(b) DETAILEES.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(c) CONSULTANT SERVICES.—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

SEC. 1808. COMPENSATION AND TRAVEL EXPENSES.

(a) COMPENSATION.—Each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(b) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

SEC. 1809. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.

The appropriate executive departments and agencies shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances in a manner consistent with existing procedures and requirements, except that no person shall be provided with access to classified information under this

section who would not otherwise qualify for such security clearance.

SEC. 1810. REPORTS OF THE COMMISSION; TERMINATION.

(a) INTERIM REPORTS.—The Commission may submit to the President and Congress interim reports containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(b) FINAL REPORT.—Not later than 2 years after the date of the first meeting of the Commission, the Commission shall submit to the President and Congress a final report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(c) TERMINATION.—

(1) IN GENERAL.—The Commission, and all the authorities of this title, shall terminate 60 days after the date on which the final report is submitted under subsection (b).

(2) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.—The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports and disseminating the final report.

SEC. 1811. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Commission to carry out this title \$3,000,000, to remain available until expended.

Mr. ROEMER (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Indiana is recognized for 5 minutes in support of his motion to recommit.

□ 1945

Mr. ROEMER. Mr. Speaker, before I explain what my motion is, I see on the other side of the aisle, on the Republican side, somebody that served on the Committee on Education and the Workforce with me, and someone who has decided to step down after serving the country so well through his years, and has managed one of his final bills here.

I would just like to recognize the contributions of the majority leader, the gentleman from Texas (Mr. ARMEY), and salute him for his service to the body.

Mr. Speaker, oftentimes motions to recommit are both partisan and procedural. This motion is neither one. It is not partisan in that it is a reflection actually of the substance of a bipartisan agreement arrived at by members of the intelligence committees in both Chambers, on both sides of the aisle. It is not only bipartisan, it is substantive in what it tries to achieve: to create an independent commission to respond to the national and the international tragedy of 2,900 and 4,800 people dead with the terrorist attack on September 11.

Why on this bill would we offer an independent committee, an independent blue ribbon commission to

look at answers as to why this tragic attack was perpetrated upon this country, and how to prevent future attacks? Why on homeland security?

Well, we passed the defense appropriations bill. In that bill we increased funding, and we have a plan for fighting terrorism in Afghanistan and around the world. When we are going to have a Homeland Security Department, as this bill lays out, we need to make sure that we understand how and why the September 11 tragedy took place, and to put all our resources together with the very best people that we can get to serve on this commission, Democrats and Republicans, to protect this country from future attacks and to make sure 2,900 people, 290 people, or 29 people do not die in another attack on this great Nation.

So this is not procedural, this is not partisan; this is an independent commission put forward by people such as Senator SHELBY, Senator MCCAIN, and Senator LIEBERMAN. It is reflective of a vote that took place in this body on the intelligence authorization bill, that passed this body, and one that passed the Senate with a 90 to 8 vote.

I think it is critically important that as we have reacted to attacks like Pearl Harbor on this great Nation, and it took us not 11 months to react to it but 11 days for President Roosevelt to say that we need to get to the facts and we need to find the answers, we do not need political witch-hunts or fingerpointing, we need to protect this country from any other kind of attack. That is what this independent blue ribbon commission would set forward. So it is bipartisan and it is substantive. It is on the right vehicle, the homeland security vehicle.

I may hear from somebody who opposes this that it would delay the creation of this Homeland Security Department, that the President wants and needs this bill to create this. It is a high priority of his.

I highly respect the President and his priorities, and respect the White House for their hard work on this bill. But I also say that this needs to be done and it needs to be done now. It needs to be done because we are at the end of the session, in the last few hours of this, the body's deliberative policymaking, and it needs to be done in a bipartisan way.

Mr. Speaker, when we read the headlines today in the papers and we read in the New York Times and the Post and the South Bend Tribune from my hometown that Osama bin Laden is going to attack, and he is applauding the attacks in Bali and Tunisia and Yemen and the killing of American soldiers, and he is prodding them to attack again, we need to act now. We need to pass with bipartisan votes this recommittal motion.

It is a forthwith recommittal. It would not send the motion back to the committee, it would come right back to the floor and stay on the floor. It will not delay one second this homeland security bill.

Mr. ARMEY. Mr. Speaker, I rise in opposition to the motion.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Texas (Mr. ARMEY) is recognized for 5 minutes.

Mr. ARMEY. Mr. Speaker, let me thank the gentleman from Indiana (Mr. ROEMER) for raising this subject. The gentleman is correct, this motion to recommit is not procedure, it is not partisan; it is substantive, and it is important. I want to appreciate the gentleman for his interest and his commitment to this subject.

Why, then, Mr. Speaker, would I ask that we oppose the gentleman's motion? In all due respect to the gentleman's work, his commitment, and his fervor for the subject, all of which I applaud, I think we need to recognize that we had such language in the bill and we took it out. Why would we do that? Because we felt that it was not comprehensive enough to do exactly the job the gentleman from Indiana says is important, and we believed it could be properly structured. That work will be done.

The gentleman says it must be done now. More importantly, I would say that it must be done correctly. The negotiations between very important and well-informed members of the Permanent Select Committee on Intelligence, whose work is to be applauded here, and the White House and others will go on; so it will be done. Let me encourage the gentleman to know that.

We have done our job here. We will do this kind of a review. It will all be done right and it will be done thoroughly and it will be done soon. But doing it soon is better than doing it now.

I want to thank again the gentleman from Indiana (Mr. ROEMER). He is so correct in encouraging us to get this job done, get it done as quickly as possible, and get it done right. We must understand and we must care and we must, for the sake of all of our Nation, prevent any atrocities like that in the future.

So if I may, Mr. Speaker, close, again with my most sincere appreciation for the gentleman from Indiana, with respect for what he proposes and assurance that the gentleman's objectives will be fulfilled, and fulfilled soon, and ask that the body at this time, for this moment, reject this motion to recommit and move this other larger work forward.

Mr. HOLT. Mr. Speaker, we need to pass an Intelligence Authorization bill before the year is over. If we don't, our nation's intelligence community will not be able to take advantage of the much-needed increases in funding that we in Congress have appropriated for them. At this time in our Nation's history, when we face so many threats, we simply can't allow that.

But we need to pass an intelligence authorization bill that addresses all of the challenges we face. That means including the provision so many of us support for an independent commission to investigate the 911 terrorist attacks.

Many of my constituents lost their loved ones in the World Trade Center attacks. I am here on the floor today because widows like Lori Van Auker, Mindy Kleinberg, and Patty Casazza from central New Jersey do not want other Americans to share the fate of their husbands. They want our government to ensure that it is doing absolutely everything it can to prevent future terrorist attacks from claiming American lives.

The Administration keeps telling the public that another terrorist attack is inevitable. They say it is not whether another attack will happen, but when it will happen. Another attack is only inevitable if we do not fully examine what went wrong prior to 911. It is only inevitable if we do not learn from our mistakes.

All of us want to improve coordination and communication between the government agencies that are responsible for our security. We want to streamline and integrate their functions. We want to reform how they provide for our security and we want to do it in a systematic and scientific fashion. But we cannot begin fixing things until we know exactly what is broken.

When a reasonable person gets sick, he goes to the doctor to get a diagnosis. He does not try to treat himself. When a patient tries to heal himself sometimes all he does is makes things even worse. That's why Congressional oversight committees are not enough to fix our security apparatus.

Both Republicans and Democrats support an independent commission because we do not believe that agencies like the FBI and CIA are capable of healing themselves. We believe that they need an independent commission of experts who will dispassionately and honestly diagnose their problems and prescribe the proper treatment.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ROEMER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage. This will be a 15-minute vote on the motion to recommit followed by a 5-minute vote on passage.

The vote was taken by electronic device, and there were—yeas 203, nays 215, not voting 13, as follows:

[Roll No. 476]

YEAS—203

Abercrombie	Berry	Carson (OK)
Ackerman	Bishop	Clay
Allen	Blumenauer	Clayton
Andrews	Bonior	Clement
Baca	Boswell	Clyburn
Baird	Boucher	Conyers
Baldacci	Boyd	Costello
Baldwin	Brady (PA)	Coyne
Barcia	Brown (FL)	Cramer
Barrett	Brown (OH)	Crowley
Becerra	Capps	Cummings
Bentsen	Capuano	Davis (CA)
Berkley	Cardin	Davis (FL)
Berman	Carson (IN)	Davis (IL)

DeFazio	Lampson	Rahall	McInnis	Ramstad	Sununu	Emerson	Kirk	Ros-Lehtinen
DeGette	Langevin	Reyes	McKeon	Regula	Sweeney	Engel	Knollenberg	Ross
Delahunt	Lantos	Rivers	Mica	Rehberg	Tancredo	English	Kolbe	Rothman
DeLauro	Larsen (WA)	Rodriguez	Miller, Dan	Reynolds	Tauzin	Eshoo	LaHood	Royce
Deutsch	Larson (CT)	Roemer	Riley	Royce	Taylor (NC)	Etheridge	Langevin	Ryan (WI)
Dicks	Lee	Ross	Miller, Jeff	Rogers (KY)	Terry	Everett	Latham	Ryun (KS)
Dingell	Levin	Rothman	Moran (KS)	Rogers (MI)	Thomas	Ferguson	LaTourette	Sandlin
Doggett	Lewis (GA)	Myrick	Norwood	Rohrabacher	Thornberry	Fletcher	Leach	Sawyer
Dooley	Lipinski	Nethercutt	Nussle	Ros-Lehtinen	Thune	Foley	Lewis (CA)	Saxton
Doyle	Lofgren	Ney	Osborne	Royce	Tiahrt	Forbes	Lewis (KY)	Schaffer
Edwards	Lowe	Northup	Oxley	Ryan (WI)	Tiberi	Ford	Linder	Schiff
Engel	Lucas (KY)	Norwood	Paul	Ryun (KS)	Toomey	Fossella	LoBiondo	Schrock
Eshoo	Luther	Nussle	Pence	Saxton	Upton	Frelinghuysen	Lucas (KY)	Sensenbrenner
Etheridge	Lynch	Osborne	Peterson (PA)	Schaffer	Vitter	Frost	Lucas (OK)	Sessions
Evans	Maloney (CT)	Ose	Petri	Schrock	Walsh	Gallegly	Luther	Shadegg
Farr	Maloney (NY)	Otter	Pickering	Sensenbrenner	Walsh	Ganske	Maloney (CT)	Shaw
Fattah	Markey	Oxley	Pitts	Sessions	Wamp	Gekas	Maloney (NY)	Shays
Filner	Mascara	Paul	Platts	Shaw	Watkins (OK)	Gibbons	Manzullo	Sherwood
Ford	Matheson	Serrano	Pomboy	Shays	Watts (OK)	Gilchrest	Mascara	Shimkus
Fossella	Matsui	Sherman	Portman	Sherwood	Weldon (FL)	Gillmor	Matheson	Shows
Frost	McCarthy (MO)	Shows	Pryce (OH)	Shimkus	Weldon (PA)	Gilman	McCarthy (NY)	Shuster
Gephardt	McCarthy (NY)	Skelton	Putnam	Shuster	Weller	Goode	McCrery	Simmons
Gonzalez	McCollum	Slaughter	Quinn	Simmons	Whitfield	Goodlatte	McHugh	Simpson
Gordon	McDermott	Smith (NJ)	Radanovich	Simpson	Wicker	Gordon	McInnis	Skeen
Green (TX)	McGovern	Smith (WA)		Skeen	Wilson (NM)	Goss	McIntyre	Skelton
Gutierrez	McIntyre	Snyder		Smith (MI)	Wilson (SC)	Graham	McKeon	Smith (MI)
Hall (TX)	McNulty	Solis		Smith (TX)	Wolf	Granger	Menendez	Smith (NJ)
Harman	Meehan	Spratt		Souder	Young (AK)	Graves	Mica	Smith (TX)
Hastings (FL)	Meek (FL)	Stark		Stearns	Young (FL)	Green (WI)	Millender-	Smith (WA)
Hill	Meeks (NY)	Stenholm		Sullivan		Greenwood	McDonald	Souder
Hilliard	Menendez	Strickland				Grucci	Miller, Dan	Spratt
Hinchey	Millender-	Stupak				Gutknecht	Miller, Gary	Stearns
Hinojosa	McDonald	Tanner				Hall (TX)	Miller, Jeff	Stenholm
Hoefel	Miller, George	Tauscher				Hansen	Moore	Strickland
Holden	Mollohan	Taylor (MS)				Harman	Murtha	Stupak
Holt	Moore	Thompson (CA)				Hart	Myrick	Sullivan
Honda	Moran (VA)	Thompson (MS)				Hastings (WA)	Nethercutt	Sununu
Hoyer	Murtha	Thurman				Hayes	Ney	Sweeney
Inlee	Nadler	Tierney				Hayworth	Northup	Tancredo
Israel	Napolitano	Towns				Hefley	Norwood	Tanner
Jackson (IL)	Neal	Turner				Herger	Nussle	Tauscher
Jackson-Lee	Oberstar	Udall (CO)				Hill	Ortiz	Tauzin
(TX)	Obey	Udall (NM)				Hilleary	Osborne	Taylor (MS)
Jefferson	Oliver	Velazquez				Hinojosa	Ose	Taylor (NC)
Johnson, E. B.	Ortiz	Visclosky				Hobson	Otter	Terry
Jones (OH)	Owens	Waters				Hoefel	Oxley	Thomas
Kanjorski	Pallone	Watson (CA)				Hoekstra	Pascrell	Thompson (MS)
Kaptur	Pascrell	Watt (NC)				Holden	Pelosi	Thornberry
Kennedy (RI)	Pastor	Waxman				Horn	Pence	Thune
Kildee	Payne	Weiner				Hulshof	Peterson (MN)	Thurman
Kilpatrick	Pelosi	Wexler				Hunter	Peterson (PA)	Tiahrt
Kind (WI)	Peterson (MN)	Woolsey				Hyde	Petri	Tiberi
Kleczka	Phelps	Wu				Inslee	Phelps	Toomey
Kucinich	Pomeroy	Wynn				Isakson	Pickering	Turner
LaFalce	Price (NC)					Israel	Pitts	Udall (CO)

NAYS—215

Aderholt	Culberson	Hastings (WA)
Akin	Cunningham	Hayes
Armey	Davis, Jo Ann	Hayworth
Bachus	Davis, Tom	Hefley
Baker	Deal	Herger
Ballenger	DeLay	Hilleary
Barr	DeMint	Hobson
Bartlett	Diaz-Balart	Hoekstra
Barton	Doolittle	Horn
Bass	Dreier	Hostettler
Bereuter	Duncan	Hulshof
Biggert	Dunn	Hunter
Bilirakis	Ehlers	Hyde
Blunt	Ehrlich	Isakson
Boehlert	Emerson	Issa
Boehner	English	Istook
Bonilla	Everett	Jenkins
Bono	Ferguson	Johnson (CT)
Boozman	Flake	Johnson (IL)
Brady (TX)	Fletcher	Johnson, Sam
Brown (SC)	Foley	Jones (NC)
Bryant	Forbes	Keller
Burr	Frelinghuysen	Kelly
Burton	Gallegly	Kennedy (MN)
Buyer	Ganske	Kerns
Callahan	Gekas	King (NY)
Calvert	Gibbons	Kingston
Camp	Gilchrest	Kirk
Cannon	Gillmor	Knollenberg
Cantor	Gilman	Kolbe
Capito	Goode	LaHood
Castle	Goodlatte	Latham
Chabot	Goss	LaTourette
Chambliss	Graham	Leach
Coble	Granger	Lewis (CA)
Collins	Graves	Lewis (KY)
Combest	Green (WI)	Linder
Cooksey	Greenwood	LoBiondo
Cox	Grucci	Lucas (OK)
Crane	Gutknecht	Manzullo
Crenshaw	Hansen	McCrery
Cubin	Hart	McHugh

NOT VOTING—13

Blagojevich	Houghton	Roukema
Borski	John	Shadegg
Condit	McKinney	Stump
Frank	Morella	
Hooley	Rangel	

□ 2018

Mr. SAXTON changed his vote from “yea” to “nay.”

Messrs. MASCARA, HILLIARD, and DOGGETT changed their vote from “nay” to “yea.”

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. OXLEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 299, nays 121, not voting 11, as follows:

[Roll No. 477]

YEAS—299

Aderholt	Bonilla	Combest
Akin	Bono	Cooksey
Allen	Boozman	Cox
Andrews	Boswell	Cramer
Armey	Boucher	Crane
Baca	Boyd	Crenshaw
Bachus	Brady (TX)	Crowley
Baird	Brown (SC)	Cubin
Baker	Bryant	Culberson
Baldacci	Burr	Cunningham
Ballenger	Burton	Davis (CA)
Barcia	Buyer	Davis (FL)
Barr	Callahan	Davis, Jo Ann
Barrett	Calvert	Davis, Tom
Bartlett	Camp	Deal
Barton	Cantor	DeLay
Bass	Capito	DeMint
Bentsen	Cardin	Deutsch
Bereuter	Carson (OK)	Diaz-Balart
Berkley	Castle	Dicks
Berry	Chabot	Dooley
Biggert	Chambliss	Doolittle
Bilirakis	Clay	Dreier
Bishop	Clement	Dunn
Blunt	Clyburn	Edwards
Boehlert	Coble	Ehlers
Boehner	Collins	Ehrlich

NAYS—121

Abercrombie	Dingell	Jones (OH)
Ackerman	Doggett	Kaptur
Baldwin	Doyle	Kildee
Becerra	Duncan	Kilpatrick
Berman	Evans	Kleczka
Blumenauer	Farr	Kucinich
Bonior	Fattah	LaFalce
Brady (PA)	Filner	Lampson
Brown (FL)	Flake	Lantos
Brown (OH)	Gephardt	Larsen (WA)
Cannon	Gonzalez	Larson (CT)
Capps	Green (TX)	Lee
Capuano	Gutierrez	Levin
Carson (IN)	Hastings (FL)	Lewis (GA)
Clayton	Hilliard	Lipinski
Conyers	Hinchey	Lofgren
Costello	Holt	Lowe
Coyne	Honda	Lynch
Cummings	Hostettler	Markey
Davis (IL)	Hoyer	Matsui
DeFazio	Jackson (IL)	McCarthy (MO)
DeGette	Jackson-Lee	McCollum
Delahunt	(TX)	McDermott
DeLauro	Johnson, E. B.	McGovern

McKinney	Pastor	Solis
McNulty	Paul	Stark
Meehan	Payne	Thompson (CA)
Meek (FL)	Rahall	Tierney
Meeks (NY)	Rivers	Towns
Miller, George	Rodriguez	Udall (NM)
Mollohan	Roemer	Velazquez
Moran (KS)	Roybal-Allard	Visclosky
Moran (VA)	Sabo	Waters
Nadler	Sanchez	Watson (CA)
Napolitano	Sanders	Watt (NC)
Neal	Schakowsky	Waxman
Oberstar	Scott	Weiner
Obey	Serrano	Wexler
Oliver	Sherman	Woolsey
Owens	Slaughter	Wynn
Pallone	Snyder	

NOT VOTING—11

Blagojevich	Hooley	Roukema
Borski	Houghton	Rush
Condit	Morella	Stump
Frank	Rangel	

□ 2030

Messrs. ROTHMAN, ROYCE, and BACA changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION TO SUBMIT PROCEEDINGS OF SELECT COMMITTEE ON HOMELAND SECURITY FOR PRINTING

Mr. PORTMAN. Mr. Speaker, I ask unanimous consent that, notwithstanding section 7 of House Resolution 449, the gentleman from Texas (Mr. ARMEY) be permitted through the end of the 107th Congress to submit the proceedings of the Select Committee on Homeland Security for printing pursuant to clause 1(c) of rule XI of the rules of the House of Representatives for the 107th Congress.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Ohio?

There was no objection.

HOOR OF MEETING ON TOMORROW

Mr. PORTMAN. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 1 p.m. tomorrow.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

MAKING IN ORDER CALL OF PRIVATE CALENDAR ON TOMORROW

Mr. PORTMAN. Mr. Speaker, I ask unanimous consent that the call of the Private Calendar be in order on Thursday, November 14.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair de-

clares the House in recess subject to the call of the Chair.

Accordingly (at 8 o'clock and 31 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 2200

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. DREIER) at 10 p.m.

CONFERENCE REPORT ON H.R. 3210, TERRORISM RISK PROTECTION ACT

Mr. SHAYS submitted the following conference report and statement on the bill (H.R. 3210) to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism.

CONFERENCE REPORT (H. REPT. 107-779)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3210), to ensure the continued financial capacity of insurers to provide coverage for risks from terrorism, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) *SHORT TITLE.*—This Act may be cited as the "Terrorism Risk Insurance Act of 2002".

(b) *TABLE OF CONTENTS.*—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—TERRORISM INSURANCE PROGRAM

Sec. 101. Congressional findings and purpose.

Sec. 102. Definitions.

Sec. 103. Terrorism Insurance Program.

Sec. 104. General authority and administration of claims.

Sec. 105. Preemption and nullification of pre-existing terrorism exclusions.

Sec. 106. Preservation provisions.

Sec. 107. Litigation management.

Sec. 108. Termination of Program.

TITLE II—TREATMENT OF TERRORIST ASSETS

Sec. 201. Satisfaction of judgments from blocked assets of terrorists, terrorist organizations, and State sponsors of terrorism.

TITLE III—FEDERAL RESERVE BOARD PROVISIONS

Sec. 301. Certain authority of the Board of Governors of the Federal Reserve System.

TITLE I—TERRORISM INSURANCE PROGRAM

SEC. 101. CONGRESSIONAL FINDINGS AND PURPOSE.

(a) *FINDINGS.*—The Congress finds that—
(1) the ability of businesses and individuals to obtain property and casualty insurance at reasonable and predictable prices, in order to spread the risk of both routine and catastrophic loss, is critical to economic growth, urban devel-

opment, and the construction and maintenance of public and private housing, as well as to the promotion of United States exports and foreign trade in an increasingly interconnected world;

(2) property and casualty insurance firms are important financial institutions, the products of which allow mutualization of risk and the efficient use of financial resources and enhance the ability of the economy to maintain stability, while responding to a variety of economic, political, environmental, and other risks with a minimum of disruption;

(3) the ability of the insurance industry to cover the unprecedented financial risks presented by potential acts of terrorism in the United States can be a major factor in the recovery from terrorist attacks, while maintaining the stability of the economy;

(4) widespread financial market uncertainties have arisen following the terrorist attacks of September 11, 2001, including the absence of information from which financial institutions can make statistically valid estimates of the probability and cost of future terrorist events, and therefore the size, funding, and allocation of the risk of loss caused by such acts of terrorism;

(5) a decision by property and casualty insurers to deal with such uncertainties, either by terminating property and casualty coverage for losses arising from terrorist events, or by radically escalating premium coverage to compensate for risks of loss that are not readily predictable, could seriously hamper ongoing and planned construction, property acquisition, and other business projects, generate a dramatic increase in rents, and otherwise suppress economic activity; and

(6) the United States Government should provide temporary financial compensation to insured parties, contributing to the stabilization of the United States economy in a time of national crisis, while the financial services industry develops the systems, mechanisms, products, and programs necessary to create a viable financial services market for private terrorism risk insurance.

(b) *PURPOSE.*—The purpose of this title is to establish a temporary Federal program that provides for a transparent system of shared public and private compensation for insured losses resulting from acts of terrorism, in order to—

(1) protect consumers by addressing market disruptions and ensure the continued widespread availability and affordability of property and casualty insurance for terrorism risk; and

(2) allow for a transitional period for the private markets to stabilize, resume pricing of such insurance, and build capacity to absorb any future losses, while preserving State insurance regulation and consumer protections.

SEC. 102. DEFINITIONS.

In this title, the following definitions shall apply:

(1) *ACT OF TERRORISM.*—

(A) *CERTIFICATION.*—The term "act of terrorism" means any act that is certified by the Secretary, in concurrence with the Secretary of State, and the Attorney General of the United States—

(i) to be an act of terrorism;

(ii) to be a violent act or an act that is dangerous to—

(I) human life;

(II) property; or

(III) infrastructure;

(iii) to have resulted in damage within the United States, or outside of the United States in the case of—

(I) an air carrier or vessel described in paragraph (5)(B); or

(II) the premises of a United States mission; and

(iv) to have been committed by an individual or individuals acting on behalf of any foreign person or foreign interest, as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the